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International Court of Justice

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Official transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 4 February 1946, 1000-1300, Lord Justice Lawrence presiding.

MARSHAL OF THE COURT: May it please the Court, I desire to announce that the defendant Kaltenbrunner will be absent from this morning's session on account of illness.

M. FAURE: May it please the Tribunal, Mr. Dodd would like to make some explanations.

MR. DODD: Members of the Tribunal, with reference to the respective witness Pfaffenberger, over the weekend it occurred to us, after talking with him, that perhaps if defense counsel had an opportunity to talk to him we might save some time for the Court. Accordingly we made this witness available to Dr. Kauffmann for conversation and interview, and he has talked with him as long as he has pleased, and he has notified us that in view of his conversation he does not care to cross-examine him, as well as other counsel for the defense who have no desire to cross-examine him.

THE PRESIDENT: Then the witness Pfaffenberger can be released?

MR. DODD: That is what we would like to do, at the order of the Court.

THE PRESIDENT: Very well.

M. FAURE: Gentlemen, during the last session I had reached the end of the first period of the German occupation of Denmark. I should like to point out in addition, considering that first period, a circumstance which is established by the Danish report, second memorandum, page four. I quote:

"When the German aggression against Russia took place the 22nd of June 1941" -- that is the third book of the report -- "one of the most serious encroachments was carried out against political liberties which the Germans had promised to respect. They forcibly obliged the government to carry out the internment of Communists; total number of three hundred."

The explanation which I made in the previous session related to the abusive interference of the first act of German usurpation, which was the diplomatic representation.

The second organ of German interference was, as might be expected, the

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local National Socialist Party of Fritz Clausen, about which I spoke previously. The Germans hoped to see this develop under the favorable circumstance of the occupation, and thanks to the support that this would bring, this party might develop in a remarkable way. But their calculations were completely deceived. In fact, in March 1943 elections took place in Denmark, and these elections emphasized the total defeat of the Nazi Party. This party obtained only a proportion of 2.5 percent of the vote and they only obtained three seats in the Chamber of Deputies out of 149 seats. I point out to the Tribunal that in some copies of my brief there is a mistake in printing which indicates twenty-five percent instead of 2.5 percent, which is the true figure, which shows the very minimum success of the Clausen Party.

The conduct of the Germans in Denmark indicated a notable change in the period following the month of August 1943. The first reason for this change was clearly the failure of the plans which consisted in seizing legally the power, thanks to the aid of the Clausen Party. On the other hand, about the same time the Germans were also disappointed as considerably as before. They sought in fact, as has been shown in my brief on economic questions, to mobilize Danish economy for the benefit of their war effort. But the Danish population, which had refused the policy of Nazification, did not wish to lend itself to the economic classification. Also, the Danish industries and the Danish workmen exhibited passive resistance, and by a legitimate reaction against the abusive undertakings of the Germans they organized a sabotage program. There were strikes accompanied by various incidents. Faced with this double failure, the Germans decided to modify their tactics.

We read concerning this in the governmental report, page six of the second memorandum, the following sentence:

"As a result of these events the plenipotentiary of the German Reich, Doctor Best, was on August 24, 1943, recalled to Berlin from which he returned with claims of having the nature of an ultimatum addressed to the Danish Government."

I should like now to submit the text of this ultimatum, which is also a part of the official Danish report. This is appendix two. The ultimatum is dated the 28th of August 1943, Copenhagen. After the three first parts

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of the report. I am now upon the second appendix, which has also been copied in my brief. Claims of the Reich Government:

"The Danish Government must immediately declare the entire country in a state of military emergency.

"The state of military emergency must include the following measures:

"1. Prohibition of public gatherings of more than five persons.

"2. Prohibition of all strikes and of any aid given to strikers.

"3. Prohibition of any gathering in enclosed premises or in open air; prohibition of being in the streets between 20 hours 30 and 5 hours 30; closing of restaurants at 19 hours 30; before the 1st of September 1943 all firearms and explosive matters which exist must be handed over to the government.

"4. Prohibition of bothering or annoying in any way whatsoever Danish nationals because of their collaboration, or the collaboration of their close relatives with the German authorities, or because of their relations with the Germans.

"5. Establishment of a press censorship with German collaboration.

"6. Establishment of martial or military courts to judge acts contrary to the provisions taken to maintain order and security. Infraction of the provisions mentioned above will be penalized in the most severe fashion, and penalties will be decreed in conformity with the law in force concerning the authorization of the government to take provisions to maintain calm order and security. The penalty of death must without delay be introduced for acts of sabotage and any aid which is given to these acts. Attacks against the German forces and its members. Possession after the 1st of September 1943 of firearms and explosive matters. The Reich Government expects to receive today before 1600 hours the acceptance by the Danish Government of the above-mentioned claims or demands."

The Danish Government, concerned with its dignity, courageously refused to yield to that ultimatum, although it found itself under the material constraint of the military occupation. At that time direct undertakings against the sovereignty were undertaken. The Germans took to themselves measures

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which they had demanded in vain from the National Government. They declared a state of military emergency. They took hostages. They attacked without previous notice, contrary to the laws of war. And at a time when there existed no state of war they attacked the army and the

Danish Navy, which they disarmed and of which they imprisoned the forces. They pronounced death sentences and deported a certain number pf persons who were considered to be Communists and whose internment they had in a prior period requested. After this date of August 29, 1943, the king, the government and the parliament ceased to exercise their functions. The administration continued under the direction of high officials who in indispensable cases took measures called, "Laws of Necessity." During this same period there existed three German authorities in Denmark:

First of all the plenipotentiary, who was still Doctor Best:

In the second place the military authority under the orders of General Hannecken, replaced subsequently by General Lindemann;

And finally in the third place the German police.

Setting up of the German police in Denmark was followed indeed a few days later by a crisis, of which I have just spoken to you. The SS Standartenfuehrer, Colonel Dr. Mildner, arrived in September as chief of the German Security; and the first of November there arrived as the supreme chief of the police in Denmark the Obergruppenfuehrer and Lieutenant General of the Police Gunther Pancke, of whom I shall speak again. General Gunther Pancke and Doctor Mildner, whose names I have already cited -- Doctor Mildner was replaced January 4, 1944, by SS. Standartenfuehrer Bovensiepen.

The Tribunal will see in the Danish Government report an appendix where you will find the information, a chart relative to the German officials in Denmark. This chart is found in the second memorandum page two. It is interesting -- although we are not concerned here with individual cases -- it is interesting because it shows the organization of the German network in this country. During the whole period which we are speaking about now, among the three German authorities already mentioned, the police played the most important role and was the principal organ of usurpation of sovereignty by the Germans. We may, for that reason, consider that at the time then Norway and Holland represent cases of civil administration, if Belgium and France represent military administration, and Denmark represented the typical case of police administration. We must never forget the different sorts of administration are always somewhat overlapping. And in all occupied countries the seizure of authority by the German police in Denmark

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during the period which begins September 1943 and lasts until liberation unleashed an extraordinary number of crimes. Differing from other administrations, the police did not act under regulations, but they interfered forcefully in the life of the country by exercising force which was orderly and systematic. I will have the opportunity of treating certain aspects of this police administration in the fourth chapter of my brief. For the moment, within the scope of my subject, I would like simply to cite the facts which constitute direct and general violation of sovereignty. From this point of view I believe that it is indispensable to point out to the Tribunal a rather special event which took place on September 19, 1944. At that date the Germans did away with the Danish police -- I mean the national police of Denmark -- and abolished totally this same institution which is indispensable and essential in all states.

I am going to read on that point the terms of the government report, second memorandum, that is to say, the third booklet of the dossier, page twenty-nine. I will begin in the middle of the paragraph, after the first sentence. The extract is found in my brief. I quote:

"The fact that the Germans had not succeeded in obtaining any influence over the Danish police neither among their leaders nor in the ranks contribute to the fact that the German military authorities at the end of the summer of 1944 began to fear the police. Pancke explained that General Hannecken and he himself were afraid thatthe police, numbering eight to ten thousand well-trained men, would not fall to the Germans in the event of an invasion. In the month of September 1944, believing that an invasion of Denmark was probable, Pancke and Hannecken began the disarming of the police and the deportation of a part of the police. Pancke submitted the plan to Himmler, who consented to it in writing, adding to theletter that the plan had been approved by Hitler. He had moreover discussed the plan with Kaltenbrunner. The operation was carried out by Pancke and Bovensiepen, who had discussed the plan with Kaltenbrunner and Mueller of the RSHA, and the regular troops aided this operation organized with the consent of General Hannecken.

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"At eleven o'clock in the morning on the 19th of September 1944, the Germans caused a false air alarm to be given. Immediately afterwards the soldiers, who were policemen, penetrated forcibly the police prefecture in Copenhagen as well as the different police headquarters in the city. Some policemen were killed. They acted in the same way throughout the whole country. Most of the policemen on duty were captured. In Copenhagen and in the large cities of the country the prisoners were taken to Germany by ships, which Kaltenbrunner had sent for this purpose or in freight cars. As it has already been said before, the treatment which they were subjected to in German concentration camps cannot be described too horribly. In the little cities of the country the policemen were freed.

"At the same time Pancke decreed what he called a state of police emergency. The exact meaning of this expression has never been explained, and even the Germans do not seem to have understood what it meant. In practice the result was that all police activities, not only simple, ordinary, but judicial were suspended. Maintenance of order and of public security was left to the inhabitants themselves.

"The last six months of the occupation, the Danish nation found itself in an unheard of situation -- unknown in other civilized countries -- of being deprived of their police force to maintain order and public security. This state of affairs might have ended in complete chaos if the respect for laws and the discipline of the population -- strengthened by the indignation because of this act of violence -- had not avoided more serious results."

Despite the bearing of the Danish population, the absence of the police for these last six months of the occupation naturally resulted in the recrudescence of criminality under all forms. You can get an idea of this if you consider that the premiums of insurance companies were raised to 480 percent, when previously they were limited to only the normal rate. It is only just to consider that the crimes committed under these conditions entail the responsibility of the German authorities who could not fail to foresee and who accepted this state of affairs. You see here a new demonstration of the total indifference of the Germans so far as consequences or results

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are concerned of acts which they decided from their point of view to be in their own interest.

Finally I would like to conclude this chapter which relates to Denmark by quoting to the Tribunal a passage of a document which I presented under the number 902. This document comes from the American documentation under the number 705-PS, but it has not yet been submitted or lodged with the Tribunal, and I would like to read an extract, one quotation, which seems interesting to me. This is a transcript established.

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at Berlin January 20, 1943, of a meeting of the SS Committee for the Study Group Concerned with Germanic Space. At this meeting were present fourteen personages of the SS. There is in this transcript a special paragraph which concerns Denmark. On the other hand, other paragraphs of the same document are of interest as far as the following chapter, which will follow this, is concerned. In order to avoid to have to quote this document twice, I shall read all the passages which I would like to submit as in evidence. I quote-- page 3 of the Norwegian document, the lower part of the page. "Norway" is underlined.

"In Norway the Minister of Fuglesang became subsequently the successor of the Minister Lunde who had died by accident. Despite the promises made by Quisling's party, we must not expect that Norway furnish an important quota.

"Denmark. In Denmark, because of the seizure of power by the Gruppenfuehrer SS Doctor Best, the situation is extremely encouraging. We may be convinced that the SS Gruppenfuehrer Doctor Best furnish a classical example of the ethnical policy of the Reich. The relations with the leaders of the Clausen Party have recently become delicate. Clausen has not been sympathetic to the establishment of a body of combatants as the prime organization for the Germanic defense of Denmark, except upon the condition that those who belong to this corps will not belong to the Party. The parties relative to the grouping, this indispensable grouping of front combatants, was continued. The position of the monopoly of the Party not being maintained, all the elements as recruiting must be utilized even if Clausen, but without his clique, must figure personally in the foreground.

"In Holland Muessert was at that time proclaimed fuehrer of the Dutch people by the Reich Commisar, Doctor Seyss-Inquart. This measure had in other Germanic countries, and particularly in Flanders, an extremely troublesome influence. The decisive role was that of the general commissariat of which the principle of exploiting Muessert

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and then dropping him subsequently must be rejected in favor of a Germanic policy of the Reich with the view of using the SS.

"Flanders. In Flanders the development of the VNV, the Flemish National Movement, continued to be unfavorable. Concerning this, the very clever policy of the new leader of the VNV, Doctor Elias, was not able, nonetheless, to deceive the people. Did he not, moreover, express the opinion that Germany was ready for a confession in the ethical domain only when its situation was difficult?"

This information, which is quite characteristic on the one hand--it is established that Germanic space should include Norway, Denmark, Holland and Flanders. I speak naturally only of the Western countries. In the second place, we see how the Germans used the local party of National Socialist inspiration of sovereignty. In the third place we see it is quite accurate that the German diplomatic agents were also instrumental in the policy of usurpation and exceeded totally their normal functions. In the fourth place the document emphasizes the inter-dependence which existed between the different agents of German interference, inter-dependence which we emphasized just now and which we cannot too much emphasize. The case of Doctor Best is a good example. Doctor Best was a Minister with plenipotentiary powers, and in that capacity a diplomatic agent. And we see also that Doctor Best was previously an agent of the military administration, and we see in this document that beyond his capacity or function of Plenipotentiary Minister he is a General in the SS. And in this capacity they stipulate in this document that he seize power in Denmark. The information that in these documents concerns Norway and the Low Countries is a transition for the following part of this chapter, and I ask the Tribunal to take the brief entitled, "Norway and Holland."

The establishment of the Reich Commissar was applied in Norway and in Holland, and only in these two countries that corresponds to a definite concept in the over-all plan of Germanization, in which these two countries had no voice. In both cases the establishment of civil

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administration follow closely the military occupation of the country. This Ministry was only concerned with measures concerning public order.

In Norway by decree of April 24, 1940, a certain Terboven was Reich Commissar. This decree is signed by Hitler, Lammers and the Defendants Keitel and Frick. In Holland there was a decree of May 18, 1940, which appointed the Defendant Seyss-Inquart as Reich Commissar. This decree is signed by the same persons as the preceding decree, and it bears moreover the signatures of the Defendant Goering and Ribbentrop.

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The degrees of appointment of Reichskommissars defined at the same time the function and fixed the sharing of the functions between the Reichskommissar and the military authorities. I do not submit these as documents showing these were direct acts of German legislation. The degree concerning Norway provides in its first article that the Reichskommissar has the concern of safeguarding the interests of the Reich, and of exercising supreme power in the civil domain. The decree adds: "The Reichskommissar is director under me and receives from me directives and instructions."

As far as the division of powers or functions is concerned, here is the text of Article 4: " The Commander of the German troops in Norway exercises rights of military sovereignty. His orders are carried out in the civil domain by the Reichskommissar."

This decree was published in the official Journal of German decrees for 1940, No. 1. The same information is given in a similar decree of May 18, 1940, applying to Holland. This establishment of Reichskommissars was accompanied at the beginning with some information that was supposed to reassure the public. Terboven proclaimed that he had decided to limit to the maximum the inconveniences and expenses of the occupation. This is found in a proclamation of April 26, 1940, which is in the official journal, page 2.

Likewise, after his appointment the defendant Seyss-Inquart addressed to the Dutch people an appeal, which is found in the official journal for Holland of 1940, page 2, where he expressed himself as follows. The first is a catagorical phrase: "I shall take all measures, including those of a legislative nature, which will be necessary for carrying out this mandate"; and he adds: "It is my will that the laws in force up to now shall remain in force, and that the Dutch authorities must be associated with the carrying out of governmental affairs, and thatthe independence of justice be maintained."

But these promises were not kept. The Reichskommissar, evidently, in Norway and in Holland was the principal agent of the usurpation of sovereignty. He acted, however, always in close relation with a second agent of usurpation, which is the National Socialist organization in the country. This collaboration of the local Nazi Party with the German autho-

rity, represented by the Reichskommissar, took on forms perceptibly different in each of the two countries under consideration. As a result, the exercise of power by the Reichskommissar presented in itself between Norway and Holland differences which were more apparent than real.

In the two countries the local National Socialist Party existed prior to the war. It developed under the inspiration of the German Nazi Party and in the general scope of war preparations and of their plan for Germanization. I should like to give a few bits of information relating to Norway.

The National Socialist Party is called there the National Samling. For leader it had the celebrated Quisling. It constituted a perfect imitation of the German Nazi Party. I submit to the Tribural as Document 920 the text of the oath of fidelity subscribed to by members of this National Samling Party. I quote:

"My promise of fidelity: I promise on my honor: First, unflinching fidelity and loyalty towards the National Socialist Movement, its idea, and its Fuehrer."

This is the third page of the Document 920.

"Second, to work energetically, tirelessly, and boldly for the cause. Always in my work I shall be worthy of confidence and show discipline. I shall do all that I can to acquire the knowledge and aptitude which is required for my activity in the movement.

"Three, as far as I can, I shall live according to the National Socialist spirit, and towards all my companions in the struggle I shall show solidarity and comprehension and be a good comrade to them.

"Four, to obey any administrative decision taken by the Fuehrer or by trusted advisors when the latter do not act against or in disagreement with the directions of the Fuehrer.

"Five, never to reveal to others (to foreigners or enemies) details of N.S. methods of work or anything whatsoever which might harm the movement.

"Sixth, to use extreme efforts at all times to contribute to the progress of the movement and to the realization of its purpose, and to fulfill the place in the organization of the struggle which I charge myself to do under promise of fidelity, quite conscious that I will be guilty of an unworthy and wretched action if I broke this promise.

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"Seventh, if the circumstances make it impossible for me to continue as a member of the organization for struggling, I promise to withdraw in an honest fashion.

"I shall remain bound by the secret, I promise, and I shall do nothing of detriment to the movement. Our purpose, the purpose of the National Samling, is this: a new state in Norwegian and Nordic association, which are a joint association in the world's community, organizally constructed on the foundation of work, under a powerful and stable leadership, the union between the communal utility and the private utility."

This applies in a complete way to the Fuehrer principle. The very day of the invasion the Nazis forced the establishment of an alleged Norwegian Government, over which Quisling presided. This experiment, however, did not last very long. Beginning with the following April -- the 15th, in fact -- the Germans decided "to hold in reserve" their protegee, according to their own expression. At that time the Norwegian Supreme Court proceeded to appoint a board of officials who were invested under the title of Administrative Council, with powers of higher administration. This Administrative Council constituted then, under the exceptional circumstances in which it was appointed, a qualified authority, at any rate, for keeping up the appearance of representing the legitimate sovereignty. It functioned only a short time. Beginning with the month of September the Nazis observed it was not possible for them to obtain the complicity, or even passive acceptance, of the administrators. They then appointed themselves thirteen Kommissars, of whom ten were selected among the members of the Quisling Party. Quisling himself did not exercise any nominal function, but he remained the Fuehrer of his party.

Finally, a third period began the 1st of February 1942. At that date Quisling returned to power as Minister and President, and the Kommissars themselves took on the title or name of Ministers. This situation lasted until the freeing of Norway. Thus, with the exception of a period of a few months in 1940, the Germans seized in an absolute manner all the sovereignty in Norway. This sovereignty was shared between a direct agent, the Reichskommissar and their indirect agents, first called the State Council and then the Quisling Government, all, however, emanating from the National Socialist

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Movement.

It is incontestible that the independence of these organizations in their relations with the German authorities was absolutely nil. The fact that the second organization was qualified as governmental corresponded to no strengthening of autonomous authority. There were only differences of power form, of which I shall point out the major to the Tribunal. I present, in relation to these two documents, No. 921 and No. 922. By comparing these two documents you will see the exactness of which I have just affirmed. These two documents are instructions addressed by the Reichskommissar to these organizations concerning legislative procedure. I shall point out to the Tribunal the date when these documents were numbered. I shall consider first Document 922 and subsequently Document 921. The two documents, however, are closely allied.

The first document is dated October 10, 1940, and it is about the beginning of the period of the State Councils. I quote an extract from this document:

"All the decrees of the State Counselor must be submitted beofre their publication to the Reichskommissar."This is to be found in the second paragraph. It is the only point which I would like to make in this document. All the decrees of the higher Norwegian administration were under the control of the Reichskommissar.

The second document, Document 921, is dated 8 April 1942. It relates to the period shortly after the establishment of the second Quisling Government. I read a part of the second sentence of this document:

"Given the formation of the National Norwegian Government, the Reichskommissar decided that henceforth this form of agreement -- a prior agreement in writing -- is no longer required. Nevertheless, this modification of form of legislative procedure should not have for a result the proclamation of law decreed by the Norwegian Government and instituted by the competent service of the Reichskommissariat. His Honor, the Reichskommissar, expects every department chief to inform himself through close contacts with the competent Norwegian bureaus of all legislative measures which are in preparation, and he should examine in each case to see that these measures concern German interests, and that he will assure himself, in case of need, that German interests will be taken account of."

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. Thus, it is a close family control with written authorization, and it is an internal control by information handed over between the different offices; but the principle is the same. The establishment of local authority under one form or under another form corresponded only to the search for the best way of deceiving the public. When the Germans put Quisling in to the background it was because they thought the State Counsellors, being less well known, might more easily deceive the public. When they had Quisling return, it was because the first maneuvers had failed obviously, and because they thought that perhaps the official establishment of a qualified authority would give the impression that the sovereignty of the country was not abolished. One might, however, wonder what was the reason for these artifices and why the Nazis used them instead of simply and purely annexing the country. There is a very important reason for that. It is valid for Norway and it will be valid for Holland. The Nazis preferred to keep the fiction of independent states and to insure for themselves a definite empire from within by the utilization and by the development of a local party. It is with this view in mind that they granted to the party in Norway advantages of prestige, and

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if they did not act in Holland in an identical manner, we shall see that their general conduct is, however, inspired by the same point of view.

This policy of the Germans in Norway is perfectly illustrated by the Norwegian law, an alleged Norwegian law of March 12, 1942, official Norwegian Journal, 1942, page 215, which I offer in evidence as Document No. 923, I quote:

"Law concerning the party and the State, March 12, 1942, No. 2, paragraph 1: In Norway the National Samling is the fundamental party of the State and closely allied with the State.

"Paragraph 2: The organization of the party, its activity, and the duties of its members are fixed by the Tribunal of the National Samling.

"Oslo, March 12, 1942, signed Quisling, President of the Council."

On the other hand, the Nazis organized on a large scale the system of reduplication which exists in the higher authority. It is the transposition of the German system, which includes constant parallelism between the State Administration and the party organizations. Everywhere the German Nazis were appointed and established to second and supervise the Norwegian Nazis who had been in official positions.

This point is interesting from the point of view of seizure of sovereignty (and the way in which it was carried out) and the administration. I would like to submit two documents, which are Documents 924 and 925. These are extracts of judicial interrogations by the Norwegian Justice of two German high officials of the Reichskommissariat at Oslo. Document 924 refers to the interrogation of George Wilhelm Mueller, interrogation dated January 5, 1946. Wilhelm Mueller was the leader of the Bureau for the Education of the People and for Propaganda. The information which he gives is relative to the functioning of the Propaganda Bureau, and also analagous methods which were used for all bureaus, as this deposition documents. I quote Document 924:

"Question: In 1941 no one thought in your country that there would be military difficulties. At that time they certainly tried to form the Norwegian people in the Nationalist Socialist sense?

"Reply: That is what they did until the very end.

"Question: What were the measures practised for this National Socialist formation?

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"Reply: They supported the M.S. Samling as far as possible, and they did it, in the first place, by strengthening from the organizational point of view the structure very strongly."

I may point out that this translation of French is not very elegant, but it is comprehensible.

"Question: In what way was it strengthened?

"Reply: In each fylking, or province, they appointed National Socialists who had been particularly selected to aid the Norwegian National Socialists.

"Question: Were there other measures which were carried out?

"Reply: That was done in all documents, even in the domain of propaganda, the Einsatzstab putting propagandists at their disposal. They also did it at Oslo under the central direction of the N.S. Samling.

"Question: How did these propagandists work?

"Reply: They were in close relation with similar Norwegian propagandists and also to the leaders suggestions. Grell did that in a double capacity as Chief of Propaganda in the Reichskommissariat and the leader in the Landsgruppe.

"Question: What was the method that was utilized?

"Reply: These constant conferences were continued to the very top of the hierarchy. There was a man who was particularly entrusted, first Wegener, then Neumann, then Schnaubusch, who had the position of intensigying National Socialist ideas within the N. S. Samling.

"Question: In the Einsatzstab there were experts in the different branches who were to be in contact with Norwegians in order to advise them. In what domain?

"Reply: There were organizers, and especially counsellors, for the Hird, the leaders of the SA and SS. We had as a leader one man for the press, a propagandist, Mr. Schnaubusch, until he became himself leader of the Einsatzstab a financier, a counsellor for social questions, as with the NSV in Germany. "

The Tribunal will notice in this document the name of Schnaubusch as being the leader of the Einsatzstab, which was the organization which had control of the local party. I would like now to read an extract of the interrogation of Schnaubusch, which is found in Document 925.

THE PRESIDENT: Are you putting these documents in?

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M. FAURE: Yes, Mr. President.

THE PRESIDENT: Will you say, for the purposes of the shorthand note, that you offer them in evidence?

M. FAURE: Will you excuse me?

I offer Document 925 as well as Document 924, of which I spoke just now. I offer these documents in evidence.

This is from the interrogation of 8 January 1946 in Oslo of Heinrich Schnaubusch, leader of the liaison service in the Reichskommissariat:

"Question: How did the German departments try to carry out this National Socialist transformation?"

I wish to point out to the Tribunal that the three first questions I did not consider to be of any great interest, so I omitted them.

"Reply: We sought to strengthen this movement with all the customary ways of leading the masses as we were accustomed to do in Germany. The National Samling took advantage of the fact that they had all means of transmission and propaganda. But we saw very clearly that the purpose could not be obtained. After September 25, 1940, the atmosphere in Norway changed from one day to the other when some State Counsellors were appointed as N. S. State Counsellors, and that because the acts of Quisling during the days of April, 1940 were considered as a betrayal.

"Question: In what way did you assist from the material point of view the N. S. Samling in this propaganda? In what way did you give your advice to the N. S. Samling?

"Reply: At the time I was in office was when propaganda activity was to be carried out. It harmonized with the propaganda which was taking place in Germany.

"Question: Did you issue any directives for the N. S. Samling?

"Reply: No. In my time the N. S. Samling worked in an autonomous manner in this domain, and even in part contrary to our advice. The N. S. Samling invoked the fact that it understood the public, the Norwegian mentality, but it committed numerous mistakes.

"Question: Were pecuniary means put at its disposal?

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"Reply: In every fashion. Financial means were given, but I don't know the exact sum."

THE PRESIDENT: Shall we adjourn for ten minutes?

(Whereupon at 1120 hours a ten-minute recess was taken.)

I should like first of all to point out to the Tribunal that, with its permission, I should like to have heard this afternoon the witness Van der Essen, about whom a regular request has already been submitted.

THE PRESIDENT: Yes.

M. FAURE: This witness can then be called at the beginning of the afternoon session.

The observations which I have just presented had to do with Norway.

In the Netherlands, unlike what happened in Norway, the Nazis did not utilize the local Party as an official agent of the government. The government authority belonged, in an integral fashion, to the Kommissar of the Reich, which was made up of a sort of Ministry, including four general Kommisars, respectively competent for government and justice, for public security, for finances and the economic affairs, and for special matters. This organization was created by a decree of 3 June, 1940, Official Journal of Holland, 1940, Number 5. As the Dutch official Journal has been submitted in evidence to the Tribunal, I shall not again submit each text, which is a part of it. I shall, therefore, simply ask the Tribunal to take notice of it and I shall consider it as proof.

The holders of the posts were nominated by the decree of 5 June, 1940.

The local authorities are represented in the superior echelon only by the Secretaries General of the Ministries, who are entirely responsible to the Reich Kommissar and to the General Kommissars.

The ordinance of 29 May, 1940, which is in the Dutch official Journal, 1940, page 8, specifies in its first article;

"The Kommissars of the government exercise the powers given until now to the King and to the Government."

And in Article 3 of the same document:

"The General Secretaries of the Dutch Ministries are responsible before the Reich Kommissar."

If the Nazi Party did not constitute the government, it nevertheless received an official consecration.

I shall quote on this point the decree of 30 January, 1943, which likewise is in the Dutch Official Journal, 1943, page 63. I read the following passage:

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"The representative of the political will of the Dutch people is the National Socialist movement of the Netherlands. I have ordered that all the German offices under my orders, in order to assure the coordination between the tasks of the administration and that of the National Socialist movement, maintain close relations with the Chief of the movement, as concerns the execution of important administrative measures and particularly for all matters concerning personnel."

The Tribunal knows already, through public knowledge and as much as is necessary through the witness who has been heard, how outrageously inaccurate it was to claim that the Dutch National Socialist Party represented the political will of the people of this country.

Having observed these forms of utilization of the local Party as agents of sovereignty, I should now like to point out to the Tribunal the essential lines, the various ways in which these usurpations were committed by the Germans.

A first directive must be defined by the attempt to bring the occupied countries to participate in the war and at the very least, to develop in them recruiting for the German Army. In Norway the Nazis created the "SS Norge", an organization which later was to be called the "Germanske SS Norge." I submit as evidence Document 926, which is an ordinance of 21 July, 1942, concerning the Germanske SS Norge, and I quote paragraph 2 of this ordinance, which is an ordinance of Quisling.

"2. The Germanske SS Norge is a National Socialist order of soldiers which is to be composed of men of Nordic blood and ideas. It is an independent subdivision of the National-Samling, directly under the NS Foreren (that is the Fuehrer of the National-Samling and is responsible to it). It is, at the same time, a section of the Stor Germanske SS, (the SS of Greater Germany) and is to contribute to the carrying out of the following work:

"Directing the Germanic people toward a new future and creat the basis of a Germanic community."

We see here again, by this example, that the intervention of a so-called Norwegian government, is perfectly clear the undertaking of Germanization.

In order to facilitate the recruiting into this Legion, the Nazis did

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not hesitate to upset the civil legislation and to violate the constant principles of the rights of family by having a law which dispenses minors from the consent of their parents, put into effect. This is a law of the first of February, 1941, Norwegian Official Journal, 1941, 153, which I submit in evidence as Document 927.

In Holland the Germans were obliged to upset even more the national legislation in order to permit military recruiting. As they did not create any factious government and as the legitimate government was still at war with the Reich, the volunteers fell under the force of Article 101 the Dutch penal code, which punished the enrolling in the Army of a foreign power and likewise the fact of giving aid to the enemy.

By reason of the de facto occupation of the country there was little chance of these penalties being effectively applied but it is very curious and very revealing to observe that the Reich Kommissar referred to a decree of 25 July, 1941, Dutch Official Journal, 1941, Number 1935. This decree declares that the taking into service of Dutchmen -- into the German Army, the Waffen SS or the Legion of Netherlands Volunteers -- did not fall under the provisions of the penal texts quoted above and this decree is declared retroactive to 10 May, 1940. It is therefore quite convenient when one commits a criminal act, according to the general code to modify the law to suppress or eliminate the crime in question.

Another decree of 25 July 1941, Official Journal of 1941, page 546, stipulates that enrollment in the German Army does not involve loss of Dutch nationality.

Finally, a decree of 8 August, 1941, Official Journal of 1941, page 622, declares that the acquisition of German nationality is no longer punishable by the loss of Dutch nationality. Although this last text seems to refer to a point of detail, it may be regarded as an initial attempt to create later a double nationality, which would be Dutch and German and which is a procedure which fits into the whole plan of Germanization.

In regard to this measure taken for military recruiting, I should like to indicate in detail the intent of the accusation. This results from the examination or cross-examination of the witness Vorrink, who was heard on Saturday. The accusation does not consider that the criminal character

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of this military recruiting is subordinate to the fact of having recruited persons by force, by pressure against their will. These pressures and these restraints are an aggravating aspect and a characteristic one butnot a necessary one for the criminal enterprise or undertaking which we reproach. The fact of having recruited persons, even on a voluntary basis, in the occupied countries into the German Service, is considered by us as a crime, which is punishable by the

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domestic legislation of all these countries, such as the legislation which is applicable to the acts which were committed in these countries, and in terms of the rules of law in matters of legislative competence.

It is even relatively of small importance that the recruiting of traitors was favored or not by particular pressure according to the occasion in which they found themselves personally.

I should like also to indicate at this moment a more general matter, which the accusation does not consider, that the recruiting of traitors, whether in the Army or in other activities, is for the Nazi leaders an extenuating circumstance or an absolving one. On the contrary, it is one of the characteristics of their criminal activity and the responsibility of the traitors does in no way exclude their own. We hold, on the contrary, against them the corruption which they attempted to extend into the occupied countries by making appeals to what the population of a country may contain of elements of weak morality and by provoking and seeking in the minds of everyone, the possibilities of immoral service, immoral and criminal service against the country.

This was a first directive, a first move of German pressure to enroll troops.

A second general tendency can be defined with the group of measures tending to the abolition of public freedom and the setting up of the Fuehrer principle. I shall quote by way of example some of these measures.

In Norway the elimination of political parties, German ordinance of 25 September, 1941, which is in the Official Journal of 1940, page 19; an ordinance forbidding all activity in favor of the legitimate dynasty, ordinance of 7 October 1940, in the Official Journal of 1940, page 10; the guarantees of the status of officials are suppressed, they may be transferred or dismissed for political reasons, German ordinance of 4 October 1940, Official Journal 1940, page 24. Finally a Norwegian law of 18 December, 1943, setting up a very characteristic institution, that of Departmental Chief of the Party. I submit this under Document 928. I simply sant to quote from it an expression, according to which the Departmental Chief, representing the Party, "is subject to the Minister President and to no other authority of the State. He exercises in the

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department the supreme political control over all public authorities of the department."

All professions were placed under the order of obligatory or forced associations with the application of the Fuehrer principle.

In Holland we likewise observe the elimination of elective bodies, decree of 11 August, 1941, Official Journal 1941, page 637, confirmed by decree of 21 June, 1940, Official Journal of 1940, page 54; the dissolution of political parties, ordinance of 4 July 1941, Official Journal 1941, page 513; creation of the Labor Fron, decree of 30 April 1942, Official Journal 1942, page 211; setting up of the Peasant Corporation, decree of the 22 of October 1941, Official Journal 1941, page 838.

I have given only a few examples of this principle, and I shall quote finally, a decree of the 12 of August 1941, Official Journal 1941, page 34, which creates a special judicial authority for all offenses and infractions against peace and order, against political interests or committed through political motives. In fact, the justices of the peace charged with exercising these oppressive powers were always chosen amongst members of the Nazi Party.

A third general tendency of this enterprise of usurpation can be defined as a systematic enterprise against the elite of the country and against the spiritual life of the country. It is always here that the Nazis find the greatest pressure of resistance against their designs. They attack the universities and teaching establishments.

In Holland a decree of 25 July 1941, Official Journal 1941, page 559, gives to the administration the right of closing arbitrarily all private institutions. In Holland, likewise, the University of Leyden was closed down on the 11 November, 1941.

A decree of the Reich Kommissar of the 10 of March, 1943, Official Journal 1943, page 127, forced the students to sign a declaration of Loyalty conceived in the following terms:

"The undersigned solemnly declares hereby that he will conform in honor and conscience to the laws, decrees and other dispositions in force in the Dutch occupied territory and will abstain from any act directed against the German

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Reich, the German Army or the Dutch authorities as actions and deeds which would imperil public order in the higher teaching institutions in view of the present circumstances of danger."

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In Norway rigorous measures were taken against the University of Oslo. I offer in evidence before the Tribunal Document 933. I point out to the Tribunal that the order is not correct here, that Document 933 is the last in the document book.

This document Number 933 is an article of the "Deutsche Zeitung", of 1 December 1943, reproduced in a Norwegian newspaper. It is entitled, "A house-cleaning measure necessary in Oslo." I shall read simply a few paragraphs of this article. I begin with the second paragraph:

"The students of the University of Oslo" - will the Tribunal excuse me. I shall read also the first paragraph:

"By order of the Oberfuehrer and General of the SS Polise is made known the following to the students of the University of Oslo:

"The students of the University of Oslo have attempted since the occupation of Norway, that is, since 1940, to play as resistance against the German Army of occupation, and against the Norwegian Government recognized by the Reich."

I shall end the quotation here, and I continue at paragraph 5:

"To protect the interests of the occupying power and to assure the maintenance of peace and order within this country, rigorious measures are indispensable. This is why, in the name of the Reichskommissar, I must advise you of the following:

"First, the students of the University of Oslo will be transferred to a special camp in Germany.

"Second, the women students will be dismissed from the University and will have to return immediately to their communities where they will present themselves immediately to the police. Until further orders they will be allowed to leave these communities only upon order of the police."

I shall break off the quotation here and continue in the paragraph before the last on the second page of this document, 933.

"You must be thankful to the Kommissar of the Reich for the fact that other much more drastic measures are not being applied. Moreover, thanks

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to this measure, most of you escaped for the future the danger of losing your lives and your property." End of quotation.

As concerns religious life, the Germans multiplied the attacks. By way of example, I offer in evidence Document 929, which I shall read:

"Oslo, 28 May 1941: to the Commanders of the SIPO and the SD in Bergen, Stavanger, Drontheim, Tromso,. Subject: Surveillance of religious services during the Pentecostal Festival. Result: nothing.

"You will kindly supervise the religious services and address to this address a report on the result.

It is signed - "The Commander" - the signature is illegible, but it is for the SIPO. End of quotation.

Here now is the account following this order of surveying the churches. I offer in evidence this document as Number 930. I shall read this document, which is very brief.

"Trondheim, 5 June 1941.

"The surveillance of religious services during the Pentecostal Festival gave no new essential elements. Domprost Fjellbu continues his activity as a conscientious preacher, but he does it in a sufficiently skillful manner to be able to defend each turn of phrase as being of a religious and not political nature."

The rest of the letter is half burned.

I should like also, and finally, to quote two examples which show on the one hand the constant immorality of the German methods, and, on the other hand, the just protests to which they gave rise on the part of the most qualified authorities. The first example concerns Holland.

The Dutch magistrates, outraged by the German practice, by their arbitrary arrests, and by the concentration camps, found occasion to make known their disapproval under a form which entered into the normal carrying out of their juridical functions. On the occasion of a particular affair the Court of Appeals of Leeuwarder made a declaration, which I quote to you. This is submitted to you as Document 931. I read to you an extract from this document, 931:

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"Considering that the Court cannot declare itself in agreement in the matter of the penalty inflicted upon the accused by the head Judge and its presentation of motives, the Court is of the opinion that this penalty would be determined as follows:

"Regarding the penalty that is to be inflicted: That the Court desires to take account of the fact that for some time various penalities of imprisonment inflicted by the Dutch Judge upon delinquents of masculine sex, in violation of legal principles and in violation of the intention of the legislator and of the Judge, have been executed or are being executed in camps in a manner aggravating the penalty to such a degree that it was impossible for the Judge to foresee it or even to assume it in determining the degree of the penalty.

"Whereas the Court, in taking account of the possibility of this manner of executing the penalty to be inflicted at present, will abstain from condemning the suspect to an imprisonment in conformity in this case with the gravity of the offense committed by the defendant, because the latter would be exposed to the possibility of an execution of the penalty indicated here above.

"Whereas the Court, basing itself upon this consideration, will limit itself to condemning the defendant to a penalty of imprisonment or confinement to be determined hereafter, with deduction of the time spent by him in preventive detention of such a duration that the penalty at the moment of the making of this decree or the pronouncing of the penalty will almost entirely have expired during the period of preventive detention."

End of quotation.

This example is especially interesting, because I must now indicate that as a result of this decision of the Court of Appeals, the defendant Seyss-Inquart dismissed the president of the Court by a decree of the 9th of April 1943, which is equally offered in evidence, but under the same document number, 931. These two documents will constitute a single document.

"By virtue of paragraph 3 of my decree," et cetera, "I remove from his office as councillor of the Court of Appeals Leeuwarder to take effect imme-

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diately, Doctor of Law FF Viehoff."

Signed, "Seyss-Inquart." End of quotation.

The second example which I give in conclusion will now be taken from Norway, and this involves a solemn protest made by the Norwegian Bishops. The special occasion of this protest is the following: The Minister for Police had issued a decree, dated 13 December 1940, by which he arrogated to himself the right of suppressing for priests the obligation of professional secrecy, and provided that priests who had refused to break the secrecy of the confession box would be subject to imprisonment.

On 15 January 1941, the Norwegian Bishops addressed the Ministry of Public Education and Church Affairs and handed to it a memorandum. In this memorandum they made known their protests against this extraordinary intervention of the police, and at the same time they protested against other abuses, violent acts committed by Nazi organizations, and illegal acts in the judicial field. This protest of the Norwegian Bishops is transcribed in a pastoral letter addressed to their parishes in February 1941. I submit it as Document 932. I shall read an extract from this document on page 9, top of the page:

"The decree of the Ministry of the Police, dated 13 December 1940, just published, gravely affects the mission of the priest. According to this decree, the obligation of professional secrecy for priests and ministers may be suppressed by the Ministry of the Police.

"Our obligation to maintain professional secrecy is not only established by law but has also been a fundamental condition for the work of the Church and of the ministers in the exercise of their care of souls and when they receive the confession of persons in distress. This is an inalterable condition for this work of the Church, that a person may have absolute and unlimited confidence in the commitment of the priest, the unreserved commitment of the priest, to his obligation to maintain professional secrecy, as it has been normally in the Norwegian legislation and in the regulations of the Church at all times and in all Christian countries.

"To abolish this Magna Charta of conscience is a blow against the vital

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cord of the work of the church, an attack which is of utmost gravity because of the fact that paragraph 5 of the decree stipulates that the Ministry of the Police may imprison the priest in question in order to obtain in this manner, by force, an explanation without the case having been submitted to a tribunal." End of quote.

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Yet we are still in the course of the first year of the occupation, but already the highest spiritual authorities of Norway found themselves in a situation, not only of having to protest against a particularly intolerable act, but also to bear upon the whole of the occupation, an exposition which appears on page 16 in the pastoral letter, and which I shall read to the Tribunal, last paragraph:

"This is why the Bishops of the Church have placed before the Ministry some of the acts and official proclamations in regard to the government of the society of these latter times, acts and proclamations which the Church finds in contradiction with theCommandments of God, and which give the impression that there exists a revolutionary state in the country, and not a state of occupation under which the laws are maintained to the degree to which this is not directly incompatible with the state of occupation."

This is a very exact juridical analysis, and now, if it please the Tribunal, I should also like to read a last sentence which preceded this on page 16:

"When the public authority of society permits violence and injustice and exercises pressure over souls, the Church then is the guardian of consciences. A human soul is of more importance than the entire world."

I shall ask the Tribunal now to take the file entitled "Belgium." I point out immediately to the Tribunal that this file does not include the document book. This statement, which is relative to very general facts, will be supported by way of proof by the report of the Belgian Government, which has already been submitted by my colleagues under number 394. The section which I take up now is a general section, relative to the military administration with Belgium and France, taken as two specific cases, and I shall begin by the file concerning Belgium.

In Belgium the usurpations of national sovereignty by the occupant can be imputed to the military command which affected them either by direct ordinances or by enjoining the administrative authorities of Belgium, who in this case were the Secretaries General of the Ministries.

On the details of this undertaking of usurpation, I shall read to the

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Tribunal two paragraphs of the Belgian report, Chapter 4, concerning Germanization and Nazification. Page 3, paragraph 3:

"The legal government of Belgium having withdrawn to France and to London, that is to say, the highest officials in the hierarchic order, who by virtue of Article 5 of the law of 10 May 1940, exercise in the framework of their professional activity and for casesof urgency, all the powers of higher authority."

In other words, these high officials, animated, at least during the first months of the occupation by the intention of keeping the occupying authorities as much as possible free of the administration of the country, gathered into their hands the Governmental powers and powers of regulation. On the order of the Germans this power of regulation became in the long run a real legislative power.

This regime of the Secretaries General pleased the Germans in naming to theseposts Belgians so they could maintain in Belgium all appearance of legality. They could carry out absolutely radical reforms, which would make of this country a National Socialist state.

It is interesting to note at this point that in order to strengthen their hold on the public power through the local authorities, the Germans did not hesitate by an ordinance of 14 May 1942, which is related in the official report, to suppress the jurisdictional control of the legality of the decrees of the Secretaries General, which was a violation of Article 107 of the constitution of Belgium. The Belgian report specifies in the following paragraphs what is the responsibility in this matter of threats of assault upon public law and order, and I shall quote here the very precise terms of this report on page 4, paragraph 3:

"In conclusion, whether the transformation of the legal institutions be the consequence of German ordinances or that of decrees emanating from the Secretaries General makes no difference. It is the Germans who bear the responsibility for these, the Secretaries General being in respect to them only faithful agents to carry out their instructions."

I think that it will be likewise interesting to read the three following paragraphs of the report, for they reveal characteristic facts as to German

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methods in their seizure of power.

"If it is necessary to furnish a new argument to support this thesis further, let it suffice to recall that the occupying power has employed all means to introduce into the structure for transforming, from top to bottom, the devoted agents and National Socialists. This was real termites work.

"The ordinance of March 7, 1941, under the pretext of renewing the cadres of the administration, provided for the removal of a great number of officials. They would naturally be replaced by Germanophiles.

"Finally, the Germans set up at the head of the Ministries of the Interior, one of their most devoted agents who arrogated to himself, as we shall see subsequently, the right to designate aldermen, permanent deputies, Buergermeisters, et cetera, and use his rights to proceed to certain appointments of Commissaires d'arrondissement, for instance, by setting into position creatures of the enemy."

The Belgian analysis then analyzes in a remarkably clear manner the violations by the Germans of the Belgian public order, classifying these under two headings. The first is entitled "Modification made in the constitutional structure that existed before."

Under this heading are particularly stressed, first of all, the ordinance of 18 July 1940, which immediately abolished all public activity; then a series of decrees by which the Germans suppressed electing of aldermen and decided that these aldermen would henceforth be designated by the

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central power. This was the subversion of the traditional democratic order of communal administrations.

In the same sense the Germans in violation of Article 3 of the constitution ordered by an ordinance of 26 January, 1943, the absorption of numerous communes into great urban areas.

The report points out finally in this part the fiscal exemptions granted in violation of the constitution to persons working in Germany and to persons engaged in the service of the German Army or the Waffen SS.

We find here a new example of the German criminal enterprise of military recruiting in the occupied countries.

The second heading of the report is entitled, "Introduction into Belgian public life of new institutions of National Socialist and State dominated inspiration." Such institutions were, in fact, created by the German authorities. The most remarkable are the national appropriation of agriculture and food and the central offices of merchandise. The report analyzes the characteristics of these institutions and demonstrates that they were destructive of traditional liberties. They were organs of totalitarian inspiration in which the Fuehrer precept found its application, as we have seen in similar institutions in the Netherlands.

I should like now to read the conclusion, which is brief but completely revealing, of the Belgian report on Germanization. We think that it has been sufficiently established by the preceding statement that the constitution and the laws of the Belgian people were deliberately violated by the German occupying power, and this with the end not of assuring its own security, which is obvious, but with the skillfully premeditated intendment of making of Belgium a National Socialist State, and, consequently, capable of being annexed, inasmuch as two nationalist states that are neighbors must necessarily exclude each other, the stronger absorbing the weaker.

This policy was carried out in violation of the international

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laws and customs, of the Declaration of Brussels of 1874, and of the Regulations of the Hague of 1899.

I shall not give detailed indications now concerning other applications of this usurpation in connection with Belgium, because many indications have been furnished to the Tribunal already, notably in the economic statement and likewise in Mr. Dubost's expose, and, on the other hand, as the regime of Belgium was in a very constant manner bound to the regime of France. The indications which I will make in the other chapter of my brief will relate particularly to these two countries, France and Belgium.

However, before concluding the presentation which I am now making, I should like to mention the abuses committed by the Germans against the universities of Belgium. We find here again the same phenomenon of hostility--very understandable of course--of the doctrines and Nazi leaders against the culture of these occupied countries.

In regard to the four great Belgian universities, which have such a fine tradition of spiritual maintenance, the documentation which I will present has been taken from the Appendix. I must indicate that these appendices have not been presented as documents, although they are connected with these originals, which marks their authenticity. I shall later present these appendices, and I shall ask the Tribunal, therefore, to consider that the indications that I shall give it constitute affirmations, the evidence of which will be furnished, on the one hand, by the deposit of this document, and, on the other hand, by the testimonial proof, since I have called a witness on the subject of these questions. If this satisfies the Tribunal I must excuse myself for the fact that the appendices have not been actually presented with the document, and I shall continue my declaration on this point.

THE PRESIDENT: M. Faure, what are the annexes to which you are referring?

M. FAURE: They are documents which are in the Appendix of the Belgian report. They are as follows.

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Chapter 3 of this report is included in the whole of the Belgian report, which has already been submitted. On the other hand, another copy of the same chapter has been established in the original with a series of appendices. For this reason the appendices were not translated and submitted at the same time as the main report, of which this was only a part. They are notes of the appendices in which we trace events that occurred in university life, but, as I indicated to the Tribunal, I propose to bring particularly the evidence of this point by the hearing of a witness. I thought, therefore, that I could make a declaration which would constitute an affirmation of the Prosecution, and on which I would produce the testimonial proof. On the other hand, I would submit the appendices as soon as they have been translated into German, which has not yet been done.

THE PRESIDENT: Yes. The Tribunal is satisfied with the course which you propose, M. Faure.

M. FAURE: I shall mention first that in the University of Gand the Germans undertook a special work of propaganda, addressed to the students, with a view to their Germanization. They utilized, to this effect, an organization called, "Gentsch Studenten Verbond," but their efforts to develop this organization did not achieve the success which they hoped for. They set up in this University, and likewise in others, a real espionage system under the cover of an ingenious formula, which was that of invited professors, German professors who were supposed to have been invited and who were observers and spies.

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The report of one of these invited professors has been found, and it is established by this report what was being done and the complete failure of the German effort.

In all the universities, the Germans made arrests and deported professors and students, and these operations occurred particularly when the students refused, rightly, to obey the German illegal orders which submitted them to forced labor.

Concerning the University of Brussels, it is to be remarked that this University had been, from the beginning, provided with a German Commissaar, and that forteen professors had been irregularly dismissed. Later, the University of Brussels found itself obliged to take note of this, and this was a result of a characteristic incident.

On the occasion of the vacancy of three chairs, the Germans refused to accept the nomination of the candidates proposed by the University, and they decided to name themselves professors whose views suited them. This is an example of the German methods of interfering everywhere.

On the 22nd of November, 1941, the German military administration notifie the President of the University of this decision. The University decided to go on strike, as it were, and, in spite of all the efforts of the Germans, this strike of the University of Brussels lasted until the liberation.

On this question of the Belgian universities, I should like now to read to the Tribunal. This has to do with the University of Louvain. Before reading this, I must indicate to the Tribunal the circumstances.

The Germans had in this University, as in the others, imposed upon the students forced labor. This we already know. But the reading that I shall presently make has to do with a supplementary requirement which is altogether shocking.

The Germans wished to oblige the Rector of the University, who is Mgr. Van Wayenberg, to give them a list with the addresses of the students who were eligible for obligatory service. They wished, therefore, to impose upon the Rector an act of informing, and this he did under threat of very severe sanctions. The Cardinal Archbishop of Malines intervened on this

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occasion, and on 4 June 1943 addressed a letter to General von Falkenhausen, military commander in Belgium. I should like to read this letter to the Tribunal. This letter is reproduced in a work which I have here which is published in Belgium, which is entitled "Cardinal Van Roey and the German Occupation in Belgium". I do not submit this letter as a document. I ask the Tribunal to consider it as a quotation from a public work. This is what Cardinal Van Roey writes:

"By an oral communication, for which I have asked in vain in writing, the Chief of the Militarverwaltung Reeder has informed me that in case the Rector of the Catholic University of Louvain persisted in refusing the list with the addresses of the students of the first year, the occupying authority would take the following measures: closing down of the University; forbidding the students to enroll in another University; the subjection to forced labor in Germany of all the students; and, should they evade this measure, reprisals against their families.

"This indication is all the more surprising, as a few days previously, after receiving a note addressed to your Excellence, by Monseigneur the Rector, the latter received from the Kreiskommandant of Louvain a notification that the academic authority would no longer be disturbed with regard to the lists. It is true that President Reeder informed me that this answer was a misunderstanding.

"As President of the Board of Directors of the University of Louvain, I informed the Belgian Bishops who make up this board of the serious communication which I received, and I have the duty to inform you, in the name of all the Bishops, that it is impossible for us to advise Monseigneur the Rector to hand over the lists of his students, and that we approve the passive attitude which he has observed to now. To furnish the lists, would, in effect, constitute a positive cooperation in measures which the Belgian Bishops have denounced in the Pastoral Letter of 15 March 1943, and is contrary to international law, to natural law, and to Christian morality.

"If the University of Louvain were subjected to sanctions because it

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refuses this cooperation, we consider that it would fall victim to its duty, and that however hard and painful the difficulties that it would have to undergo temporarily, its honor at least would not be sullied. We consider, with the famous Bishop of Milan, St. Ambrose, that honor is above everything - "Nihil praeferendum honestati."

"Moreover, Your Excellence cannot be ignorant of the fact that the Catholic University of Louvain depends or is subject to the Holy See. It is under the authority and the control of the Roman Congregation of Seminaries and Universities, and it is the Holy See which approved the appointment of Mgr. Van Wayenberg as Rector Magnifique of the University. If the measures announced were carried out, it would therefore be a violent attack against the rights of the Holy See, and His Holiness the Pope will be informed of the extreme dangers which threaten our Catholic University."

I shall end here the quotation from the letter, but I wish to point out to the Tribunal that in spite of this protest, and the considerations of simple practical interest, which the interests of the Germans might find in a correct attitude in this matter, the Rector was arrested on the 16th of June, 1943, and was condemned by the German military justice to eighteen months' imprisonment.

After bringing up the painful facts that we have heard in this Tribunal, I should like to observe that we might also have the impression that such an event as the arrest and sentence of a prelate, rector of a university, for an unjust cause, since there were no tragic consequences - such an event has a relatively secondary importance. I think that we cannot subordinate our intellectual judgment to the direct proof of our sensibility, which is here again put in the face of horror. We can consider that such an attack is in itself very characteristic as an act of justice by the Germanization project of the German authorities.

THE PRESIDENT: We will adjourn now.

(A recess was taken from 1300 to 1400 hours).

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Official transcript of the International Military Tribunal in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Norther Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany on 4 February 1946, 1400-1700, Lord Justice Lawrence presiding.

MARSHAL OF THE COURT: May it please the Court, I desire to announce that the Defendant Kaltenbrunner will be absent from this afternoon's session on account of illness.

M. FAURE: May it please the Tribunal, I should like to call the witness van der Essen.

THE PRESIDENT: Very well.

M. VAN DER ESSEN took the stand.

BY THE PRESIDENT:

Q What is your name?

A Van der Essen.

Q Do you swear to speak without hate nor fear, to say the truth, all the truth, and only the truth?

Raise your right hand and say "I swear."

A I swear.

THE PRESIDENT: You may sit, if you wish.

BY M. FAURE:

Q M. van der Essen, you are a professor of history in the faculty of letters at the University of Louvain?

A Yes.

Q You are the General Secretary of the University of Louvain?

A Yes.

Q You have stayed in Belgium during the whole period of the occupation?

A To the end; from the end of the month of July 1940 I did not leave Belgium.

Q Can you give information on the destruction of the library of Louvain?

A Yes, sir. I should like to recall that in 1914 this library--which

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was certainly one of the best university libraries in Europe, built in the 16th century--was systematically destroyed. It was burned by the German soldiers of the Ninth Reserve Corps, commanded by General von Boehm. This time, in 1940, the same thing was repeated. This library was systematically destroyed by the German Army.

In order that you may know and understand, I must first say that that the fire began, according to all testimony, on the night of the 16th or the 17th of May, 1940, about 1:30 in the morning. It was precisely at dawn of the 17th that the English Army made the necessary withdrawal maneuver to leave the line of defense of Q.W. On the other hand, it is absolutely certain that the first German troops entered on the morning of the 17th, about 8 o'clock in the morning. Between the departure of the English troops, on the one hand, and the arrival of the Germans on the other, that permitted the latter to proceed to a systematic destruction of the library and to attribute that systematic destruction to the British troops. I systematically opposed myself to such a version. This library was destroyed systematically by the German artillery.

There were two batteries. One was posted in the town of Coberlo, and the other battery was in the village of Lovengule. These two batteries, on each side, fired, in a systematic fashion, on the library, and nothing but the library. The best proof is that when these bombs fell, they all fell on the library. One house alone was touched by chance in the quarter where this library was found. The tower was hit four times by the battery, which fired from Lovengule, and seven times from the battery which fired from Coberlo.

At the time when the battery of Lovengule was to begin, the officer who commanded it asked an inhabitant of the town to accompany him into the field. They went into the field and arrived in a place where they could perceive from afar the tower of the library. The officer asked, "Is that indeed the tower of the library?" The reply was "Yes." The officer then said, "Are you sure?" "Yes", replied the other, "since I know it, I see it every day, and I am familiar with it."

Five minutes later the fire began, and witnesses heard shells which arrived on the library, and immediately a column of smoke arose near the tower.

THE PRESIDENT: Would you try and speak a little bit slower? It is dif-

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ficult for the translation to come through to us.

A (Continuing) So there can be no doubt that this bombardment was systematic and only aimed at the library.

On the other hand, it is also certain that a squad of about four airplanes bombarded the library and dropped the bombs upon the monument.

BY M. FAURE:

Q M. van der Essen, you are a member of the official Belgian Commission for War Crimes?

A Yes.

Q In this capacity you investigated into the events of which you speak?

A Yes indeed.

Q The information which you have given the Tribunal, then, is the result of an inquiry which you made and a witness to which you heard yourself?

A That is something I wish to state here. It is the result of an official inquiry made by the Belgian War Crimes Commission, and with several witnesses heard under oath.

Q Can you give information on the enterprise of Nazification of Belgium by the Germans, and notably the attempt to undermine the morale, as well as traditional powers?

A Certainly, sir.

First, I think it is interesting to point out that the Germans violated one of the fundamental principles of the Belgian institution, which consisted of the separation of powers; that is to say, separation of the judicial, of the executive, and the legislative power. In numerous organizations which they created themselves, either through decree or in suggesting the creation of certain organizations to their collaborators, they always mingled the legislative and the executive powers.

On the other hand, in these organizations the liberty of defense, or defending oneself, was very badly respected. And what is much more important is the fact that they took from an organization, which goes far back to the middle ages, their communal autonomy, a communal autonomy guaranteed to the people against any dangerous interference. I wish to speak of this; this is what happened.

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It will be sufficient to have read, for a short time, the Belgian newspapers, which appeared to observe that the Burgomeister, that is to say the Chief of the Community, an Alderman, in a principal Belgian city such as Gand, Liege, Charlekoy, and many cities of secondary importance--all these Aldermen and Burgomeisters were either in prison or had to appear before the War Council.

That shows sufficiently, I think, that these Burgomeisters and these Aldermen, who were appointed by the King and by the Belgian government before 1940, were all people who were deposed by the enemy, by means of groups of collaborators. It is quite important to observe this fact, because the Burgomeister--

THE PRESIDENT: You are still going too fast, sir.

A (Continuing) It is of capital importance to verify that fact, because the Burgomeister extends directly from the central power. In other words, as soon as they applied the Fuehrer principle, he might interfere in all kinds of ways in the administrative life and in the political and social life. The Burgomeister can appoint an Alderman; the Alderman appoints the communal officials and employees. Now, since the Burgomeister belonged to that Party and was appointed by that Party, he appointed communal officials from members of the Party. They might refuse ration cards, or give to the police an order to give the list of communists, and so on. They could interfere in almost any way they wished, and by every possible means, in the communal activity of Belgium.

If we examine the greatest cities and the smallest cities, we may say that everywhere there was truly a spy network of interference and intervention, subsequent to these events or facts.

Q It is true, then, to say that interference by the Germans in the administration of the commune constituted a seizure of the national Belgium sovereignty?

A Certainly, since it caused to disappear the fundamental principle of the Belgian constitution, that is to say, that sovereignty belongs to the people, and precisely, the Communal Council, who named Aldermen and who appointed Burgomeisters. It was impossible for people to be appointed in the normal way. Therefore, the sovereignty of the Belgian people was directly stricken by these measures.

Q Since you are a professor of higher education, can you give us infor-

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mation concerning the interference in education?

A Yes, sir, certainly.

First, there was interference in the domain of elementary and secondary education. By means of the General Secretary of Public Education, over which Germans exercised pressure, a commission was constituted which was entrusted with the task of purging the teaching books, or the books of teaching. It was forbidden to use class books in which the topic of the Germans having been in Belgium in the previous war was discussed. That was forbidden. Also, in the libraries and in educational institutions, they could sell these books only on one condition, that the book-seller whould tear out those chapters.

Af for new books which were reprinted or republished, these editions indicated what should be stricken out or removed.

That is an interference--a very important interference--in primary and in secondary education.

As for higher education, the interference was unleashed, so to speak, from the very beginning of the occupation, and first, for motives which I don't have to explain here, which are well known, on the free University of Brussels.

The Germans imposed, on the University of Brussels, the presence of a German Commissar. They had within their hands all the organization of the University and controlled it, even from the point of view of accounting. They imposed exchange professors. But difficulties began the day when, at Brussels, they required that they communicate to them all projects of new appointments of professors, just as the assignment of courses in the different matters were taught. The result was that at Brussels, because of this law which they arrogated, they wished to impose three professors, of whom two were obviously not acceptable. There was one, notably, who was a member of the Council during the occupation of 1914-1918, who had been condemned to death by his country. They wanted to

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place him as a professor in the University of Brussels. Under these conditions the University refused to accept this professor, which was considered, by the occupying authorities, as being sabotage.

Then, as a penalty, the administrative council of the University, the deans, the principal men of the faculty, and a few professors who were especially well known as being anti-Facists, were arrested and imprisoned in the prison of Wieck. There were more serious circumstances. They were considered as hostages, and thus if any act whatsoever of sabotage or resistance occurred, they could, as hostages, be shot.

As far as the other universities were concerned, as I have just said here to you, they wished to impose the presence of exchange professors. There were none at Louvain, because they refused categorically to receive them. Moreover, it appeared that these exchange professors were not, above all, scholars who came to communicate the result of their scholarly researches or their scientific work, but a great many of them were rather there to observe. That is, they were agents to observe for the occupying authorities.

Q. In relation to this, is it correct to say that the Belgian authorities were able to discover reports concerning one of these professors who was invited?

A. That is indeed the case. The Belgian authorities put their hands on a report of Professor von Mackinson, who was sent as an exchange professor to the University of Gand. In this report -- which is extraordinarily interesting to read for observations of a permanent nature which it contained concerning the different members of the faculty of Gand -- in this report we see that every one was observed and followed day by day, and it was pointed out whether they were for or against the local resistance, whether there was any relation with students who were Students V and V, or the Belgian resistance. The slightest gesture of all the professors was carefully noted, and, I add, with much exactness. It was a work of almost scientific nature.

Q. M. van der Essen, I explained this morning to the Tribunal different incidents which occurred in the University of Louvain, of which you were the General Secretary.

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I should like if, in a very brief way, you would tell the Tribunal the very facts themselves in relation to these incidents, notably, as far as the imprisonment of the Rector of Magnificus, van Waxenberg, is concerned.

A. Yes indeed, sir. There were serious difficulties which began in the University of Louvain after the appearance of the decree on forced labor, March 1943, by which students of the University were forced to accept compulsory labor, and I add, not in the territory of the Reich, but in Belgium. Only the result of this fact as a sort of advantage which they seemed to grant to university students was not admissible to Belgian patriots, for this very simple reason: If the University students accepted to go and work in these Belgian factories, they automatically expelled workmen, who were sent to Germany and then the students took their place.

As for the motive, it was because they did not wish to work for the enemy, first; and secondly, because from a social point of view, they felt they were jointly helping the workers and did not wish to cause them to go to Germany.

Of all the students of Louvain, at least two-thirds refused to do compulsory work, and were considered as refractory. They hid themselves as best they could. Several went to the Maquis.

Then the German authorities, seeing the way in which events were going, required that the list of students be given to them, with their addresses, so that they could arrest them in their homes; or, if they didn't find them, they might arrest, instead of them, a brother or sister or father, or any member of the family, and thus impose collective penal punishment, and this was applied.

After having used means such as this system of blackmail, finally they devised measures which were truly brutal. Several times they used Dr. Tschake, Dr. Kalisch, I believe, though I am not sure of his name, and others, who came to make searches in the university offices, to put their hands on the list of students. As this list was carefully hidden, they had to go away empty-handed.

Then they decided to arrest the Rector of the University, Monsignor van Wayenberg. He had hidden the list in a place which he alone knew. He declared that he alone knew it, so that he would not endanger any of his colleagues and the members of the faculty.

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One morning in June, two members of the Secret Police, of the SD of Brussel went down, accompanied by the field gendarme, and they arrested the Rector in his office. They transferred him to the prison of Saint-Gilles in Brussels, where he was imprisoned. Shortly afterwards he appeared before a German military tribunal, which condemned him for sabotage, 18 months in prison. I must add, in truth, that he only did six months of his service, because the physician of Saint-Gilles had perceived that the health of the Rector was very weak and it would be dangerous to keep him longer without provoking a serious incident. Thanks to the multiple intervention of all sorts of authorities, they finally freed the Rector. However, the formally forbad him to set foot in the territory of Louvain, and they forced the University to appoint, immediately, another Rector. This was refused.

Q. Is it true if I say that the German authorities persecuted, more systematically, persons who belonged to the intellectual elite?

A. Yes, from that point of view there can be no doubt. I might give, as an example, the following fact.

The order for the taking of hostages including almost all university professors, physicians, lawyers, men of letters, who were taken as hostages and sent away. At the time when the resistance was provoking all sorts of sabotage and blowing up trains, these professors, and among them several of my colleagues of Liege and Brussels who escaped -- professors of universities were put in the first railway car after the locomotive, so that if an explosion took place, an act of sabotage, and blew up the locomotive, they would be killed immediately. I know a typical case, which will show you this. It was not a question of a pleasure trip.

One day two professors of Liege, who went in a train of this kind, saw the following scene. The locomotive passed over the explosives. The car in which they were, by an extraordinary chance, also went over it, and the second car, in which the German guards were, blew up and all the German guards were killed.

On the other hand, several professors and intellectuals were deported to that sinister camp of Breendonck, which you know, I believe. Several were deported, some for acts of resistance, others for motives which were entirely

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unknown, to camps in Germany. Thus a professor of Louvain was sent to Buchenwald, to Dora, To Neuengamme, or to Grossrosen. I must add that it was not only professors in Louvain who were deported, but also intellectuals who, in the life of the country, played an important role. I think I can give you proof. When, at Louvain, the order appeared for the solemn reopening of universities, I was there myself as Secretary General of Universities. We read the list of those who were dead during the war, and this list included about 348 names. Perhaps htere were about 36 of these names who were soldiers who died during the combat in 1940. All the others were victims of the Gestapo, or were dead in camps in Germany, especially in the camps of Grossrosen and Neuengamme.

Moreover, it is true also that the Germans hated particularly the intellectuals, because, from time to time, they organized, in the press, a synchronized campaign where they proved facts that the intellectuals refused, in the great majority, to align themselves to the new order. Notably, they tried to show the necessity for struggling -- they refused to discuss the struggle against Bolshevism. The conclusion of this article was that measures should be taken against them. I remember well 20 newspaper articles; and they were sent to a concentration camp. There was no doubt that the intellectuals were imprisoned and persecuted.

Q. I will ask you no questions an anything relating to deporation or as far as camps are concerned, because that is already well known to the Tribunal. I will ask you, when I ask you the following question, not to discuss deportation.

Now, my question is relative to the whole of the atrocities which were committed by the Germans in Belgium and, notably, at the time of the offensive of December 1944 in the Ardenne's. Can you give information concerning these atrocities?

A. Yes, sir. As a matter of fact, I can give you very exact information and very detailed information, if necessary, on what happened as far as crimes and atrocities are concerned during the offensive of von Runstedt in the Ardenne's, as I was in charge of this inquiry for the War Crimes Commission. I questioned witnesses, and I know perfectly well, from personal knowledge, what happened.

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During the offensive of van Runstedt in the Ardenne's they committed crimes which were truly abominable, and in 31 localities, crimes committed against men, women, and children. These crimes were committed, on the one hand, as it happened elsewhere and as it happens during all wars, by individual soldiers. However, what I particularly want to stress are the crimes committed by whole units who received formal instructions.

On the other hand, crimes were committed by special organizations, which followed the German Division, or the units of the Army of von Runstedt, organizations which were known, though I am not quite sure, as Kommandos mit Besonderer Verwertung. These were commandos with special tasks. This not only happened in the Belgian Ardenne's, but they committed crimes of the same kind, in the same way, in the Grand Duchy of Luxembourg.

As far as the first is concerned, the crimes committed by units, I would like to say this, I don't wish to take up the time of the Tribunal, but I will just give one example, which is quite typical. It was the twon of Stavelot, where there were 140 persons, between 137 and 140. They discovered about 130 persons, of whom 36 were women and 22 were children, of whom the oldest was 14 years old and the youngest 4 years. They were killed savagely by units belonging to the SS Tank Division, one a Division Hohenstufen, the other the Leibstandarte Adolf Hitler SS Tank Division. These units proceeded. We have full information about this from the testimony of a soldier who took part in it. He was arrested by the Belgian police. During the campaign of von Runstedt he was dressed as a civilian, and later he worked as a laborer on a Belgian farm. One day the Belgium police saw, when his arm was bare, that he belonged to the SS, because of the markings which he had on his skin, and he was then arrested.

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This is the method which was used by the Division Hohenstufen.

There was a line of tanks, some of Koenigstiger, followed by Schuetzen-panzer. At a certain moment the Obersturmfuehrer of this troup had his men come forth and gave them a little speech. He said that all children which they encountered should be killed. They then went back to their tanks again. Then, as the tanks advanced along the road, it was "that house there" or "that house there". Then the soldiers, with the machine guns in their hands entered. If they found the people in the kitchen, they killed them in the kitchen. If they were at the table, they killed them there, or if they found them in the cellar, they killed them in the cellar; if they found them along the road, they killed them along the road. It was not only the Division of Hohenstufen and Leibstandarte Adolf Hitler, others also acted in this manner.

The proof is formal.

During the retreat in September, principally in that part of the Ardenne's, the resistance entered into action. There were quite a number of German soldiers who were killed during that retreat, and so, to avenge themselves for this, to avenge themselves for the resistance, they gave orders that all the civilians should be killed without pity during the course of that operation.

As far as the other system is concerned, which is still more important from the point of view of responsibility, it is this. This is the question of Kommandos mit Besonderer Verwertung. Every unit was accompanied. People of the SD, in most villages where they arrived, immediately questioned the people as to those who had taken part in the resistance, whether they were still there or whether they had fled. They had special questionnaires which included 27 questions. It was always the same. These questions were asked everyone in the towns where they arrived.

From that point of view now, I will discuss this as I did in number one, so that I will not take up too much of the Tribunal's time. I will give an example in Bande, in the Arrondissement of Marche. One of these detachments of the SD said they were sent especially by Himmler to execute the people of the resistance. These people seized all men between 17 and

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32 years of age. After having questioned them completely, after having screened them in an arbitrary way - because sometimes they didn't keep people - there were only four who were resistance members. Then they forced them to raise their hands, and march along the highway. When they reached a ruined house the officer who commanded the detachment went into the interior of the house. The men then had to place their hands on the third man of the last row. Then the officer, armed with a machine gun, killed the prisoners with a bullet in the back of the neck. Many of the young men were executed in that way by the same officer.

He wasn't satisfied to kill them with a bullet in the back of the neck, but very often he kicked these bodies which were before him. Then he sent a volley of machine gun bullets after them.

Q Mr. van der Essen, you are a historian; you have tought and developed scholars; you have the habit of being a critic of historical forces. Can you say that there exists no doubt in your mind, according to your inquiry, about the fact that these atrocities reveal an over-all plan and instructions from a superior officer?

A I think that I can affirm it, that I am quite convinced that there existed an over-all plan.

Q I would like to ask you a last question: I think that I understood that you yourself were never arrested or bothered socially by the Germans. I would like to know if you consider that for a free man who is not an objective of the German administration or police it is possible during the Nazi occupation to had a life like a free man in dignity?

A Yes, such as you see me before you. I weigh exactly 64 kilos. I am one meter 67 centimeters tall. I am quite normal, according to my colleagues in the faculty of medicine. Before the airplanes of the Luftwaffe abruptly arrived, before the declaration of war and disseminated violence in Belgium, I weighed 82 kilos. The difference between that 82 kilos and the 65 or 67 I weight now is incontestibly the result of the occupation. I don't want to enter into details of a general nature, or theoretical. I would like to point out, to make you understand - give you this story of an

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ordinary day of an average Belgian during the occupation.

I think that I can take a day in 1943: Six o'clock in the morning. The first idea that we all had was that it was the Gestapo. It wasn't the Gestapo. Someone had rung the bell. It was just a policeman who came in and said there was a light in my office. He told me to be careful about this. The nervous shock, however, was there.

At 7:30 a postman arrived. The postman brings me a summons which says I must appear personally. The postman says: "You know, Professor, I am a member of the Secretary Army and I am informed what goes on. The Germans intend to arrest today at six o'clock all the former soldiers of the Belgian Army. These soldiers must disappear immediately." And so immediately I wondered where to go. Then I went to Brussels. I arrived a few kilometers from Louvain. There was a patrol of soldiers. They put us, no matter what our social rank was, with our faces turned against the wall and our arms in the air. Then were were not armed. In that position they would take our papers and let us go after we got a few kilometers.

The street car was stopped by a gathering on the highway. I saw several women who were crying. I asked them why they were. And this is what they said: They were all - some of their men folk had refused to do compulsory work. They were arrested. They couldn't find the men. They took an old father of 82 and a young girl of 16 as being responsible, because their brothers had hidden and disappeared. And I can tell you. I arrived at Brussels to be present at a meeting of the Academy. The first thing the President said was, "van der Essen, have you learned what happened to two of your colleagues? They were arrested yesterday in the street. They have disappeared." Their wives are in a terrible state. They do not know why or where they are taken away. In the evening I go home and then we find the police again, who come to see if the people have their papers. I arrive home finally. I think that I can affirm here that then at nine o'clock in the evening when we might utter a sigh of relief, when we turn on our radio and listen, then to that sympathetic voice that we listen to every evening - The Voice of France Combatant," which we can hear today, or the radio from London - somehow we could heave a sigh of relief after having heard some

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good news; somehow that eased us. Then we could breathe easily; that was the only thing that permitted us to sleep tranquilly during the night.

That is an average day, a normal day of an average Belgian during the German occupation. And you naturally understand that we could not consider the type of happiness and felicity when the German troops invaded our country.

Q Excuse me, Mr. van der Essen. The only satisfaction that you had to listen to the radio, was punished by a severe penalty; if you were arreste

A Yes, you could be imprisoned.

M. FAURE: I thank you.

THE PRESIDENT: Are you finished Mr. Faure?

M. FAURE: No more questions, Mr. President.

THE PRESIDENT: General Rudenko?

GENERAL RUDENKO: I have no questions.

(There were no questions from the British Prosecution)

THE PRESIDENT: Do any of the Defendants' Counsel wish to ask any questions?

PROFESSOR FRANZ EXNER (Counsel for the Defendant Jodl): Yes, sir.

BY PROFESSOR EXNER:

Q You have been speaking about the University library at Louvain. Were you yourself in Louvain when the two batteries were firing at the library?

A I was not in Louvain, but I may add this: Louvain was in the battle line, and the population of Louvain were obliged by the military authorities to evacuate the town on the 14th so that the inhabitants of Louvain had left at the time when these events took place, and only paralytic ill persons who could not be cured, who had hidden in their cellars, were there; but what I know concerning these batteries, I found out through interrogation of the two witnesses who were there. The library was not burned from within, but bombed from outside. And these witnesses of whom I speak lived where the batteries were located.

Q Were there any Belgian or British troops still left in the town?

A Yes, there were Belgian troops. The British had taken over the

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sector, and when they observed that the building, the library was burning, the first flames in the night of the 16th - 17th, 1;30 in the morning the English troops had left. They no longer remained. Only a few who were withdrawing, who fired a shot of cannon occasionlly, to give the impression that the sector was still occupied by the British army.

Q So there were still British troops in the town while the bombardment took place?

A There were no longer any British troops, simply outside on the hills which surrounded Louvain, a few tanks which, as I said, were carrying out necessary manouvers for withdrawl.

I would like to add a few words and to say to the very honorable Counsel for the Defense that in this testimony, from persons who were in the library - the bailiff and the concierge - they never saw British soliders put their foot in the buildings of the library.

Q That is not surprising. At the time the

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German batteries fired were there still British batteries firing -- or Belgian batteries?

A No.

Q So then there was quiet over the town of Louvain; the troops had left; the enemy was not there yet, and the batteries didn't fire?

A That was the situation -- a paradoxical situation, in which Louvain was : There was a moment when the English had left, when the Germans had not yet arrived and the the population had left, except the few ill persons, the few paralytics, the few people who were behind in cellars, a few persons who could not be moved, the commander of the Fire Engine company, the Rector of the University. Among them was my colleague, Mr. Kennog, member of the Academy of Medicine. He himself took over the direction of the city at that time.

Q Did you know where these batteries were located, the German batteries?

A Yes, indeed. One at the west and one at the north. The only shells which the towers of the library show four from the eastern side and four from the northern side and if there had been British or Belgian batteries the shells would have come from the other side instead.

Q Can you tell me anything about the calibre, the size of that battery?

A Yes, we observed that those shells entered the library. We saved a few of those shells.

Q And do you know the name of the person who allegedly was asked by a German officer whether that was really the tower of the University Library?

Q Do you know the person yourself? Do you know him?

A I do not know him personally. He is the librarian of the university with whom I had a conversation, and who brought the war crimes commission to question to Mr. Vigneron.

Q But you are a member of that Commission yourself, aren't you?

A I state here, I am ready to declare that I took no active part concerning the library of Louvain just as Monseigneur, the Rector, and the librarian took no active part concerning the library of Louvain. It was made by an officer of the judicial delegation -- he himself, independently --

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upon the order of the public prosecutor of Louvain, and we kept entirely outside of the question.

Q Have you seen the official files?

A Yes, yes.

Q I am surprised they weren't brought here. Tell me why did the director of the library, the person who was immediately suffering after the occupation of the town, -- why did he not go to the Mayor or the mayor to the Commander of the town?

A I don't think I understand the question very well.

Q When the German Army came, and there was established a commander of the town, why didn't the Mayor of the town, or the Rector of the library -- why didn't they go to the Commander of the town, the commandant, and tell him about that bombardment of the library?

A Very simply because at that time everything was in a complete state of disorder and there was no one in town; there was hardly --

(A short interruption)

THE PRESIDENT: You may go on.

A (Continuing) At that time there was hardly anybody left in the city, and on the other hand as soon as the Germans arrived, and this in a systematic way, it was forbidden formally to enter the library; Belgians were not permitted by the Germans to enter the library. Different German inquiry commissions came to the spot, on the 26th of May, 1940, with an expert, Professor Kellermann, the Technische Hochschule, accompanied by a man of the Party. They examined what had happened and they had appear before them as witnesses the Rector of the university and the librarian. Fromthe very beginning of the inquiry they wished to force the rector of the university to declare and recognize that it was the English who had set fire to the library. And as a proof, this expert showed shells and parts of shells that smelled of gasoline. "This shell must have contained chemical elements which set fire to the library." The rector and the librarian of the university said, "Where did you find this shell? We went by that spot and it wasn't there when we went by." It was placed there by the German expert. And I shall add, if you will permit me, because this is of considerable importance, that a second commission for an inquiry came in

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the month of August, 1940, presided over by a very distinguished man, Obergerichtsrat von Boist. He was accompanied at this time by the expert who had directed the inquiry concerning the firing of the Reichstag. This commission examined everything, and beforethe rector and another witness, a Benedictine monk. They simply mocked at the conclusions of the first commission, and said these conclusions were ridiculous.

(A short interruption)

THE PRESIDENT: You may continue.

A (Continuing) I said that the second commission presided over by von Brisban, assisted by the expert who had examined the matter of the firing of the Reichstag, had declared before Belgian witnesses that the conclusion of the first commission was ridiculous.

Q You have said that thelibrary building had towers. Do you know whether artillery observers had been in these towers?

A Were there artillery observers? At all events, the only thing I can say is that the rector had always refused this -- from the beginning -- and he certainly would have opposed any attempt of this kind, knowing that if there were artillery observers in the tower obviously it would have given occasion for the enemy to fire on the library. The rector knew this and he always told me, "We must be very careful, because if the British soldiers or others were in the sector they must not go up in the tower. We must be careful of that." On the other hand, I know by the statements of the janitors that no British soldiers went into the tower. That is certain. As for Belgians, I must say that I don't know.

Q It would not be surprising, would it, if the University library had been hit by German artillery, because it has happened during the war that libraries and universities in Berlin, Leipzig, Munich, Breslau, Cologne, and so on, have been hit. The question is, only if it was done on purpose. Was there any mention, in these inquiries, as to the motive for the German army's hitting that objective.

A The over-all testimony which I received seems to indicate that this was the conclusion at which we arrived -- that the motive -- and I will not say for certain, because there is no certainty in that sort of thing -- but the motive which is absolutely probable, almost certain, for the des-

H0052-0062

truction of the library was the German's desire to do away with an inscription which commemorates the Treaty of Versailles. There was conversation in the University to the effect that this inscription, a testimonial of the defeat of the other war, should be obliterated, and because of that reason they wished to set fire to the library. The inscription read, "Furor Teutonicus." That is not the first time -- I must add -- that the Germans set fire to the University of Louvain.

Q You believe that the commander of that battery knew that?

A- There is very interesting testimony which I would like to submit to the honorable lawyer for the Defense. When the batteries were installed, the two batteries of which I spoke, a few kilometers away, there lived a fiscal agent in a villa at Roosbeek, a few kilometers before Louvain. That afternoon some German officers came there to enjoy his hospitality. They were accompanied by a truck which contained all theradio apparatus which was used to send by wireless orders to the artillery to fire. These officers came into his home and they dined. After a while a violent discussion took place. The officers said, "These Belgians 'cochons' -- excuse that expression -- "they gave us that inscription concerning the library." The inscription he was referring to seemed to be that inscription. All the German officers were absolutely convinced that this inscription said that the library was destroyed by the Germans and was restored by American generosity. It was perfectly possible that the Germans did, because from a discussion among the officers -- the officer in charge of the artillery - we know that they first directed the artillery to cause this monument --

THE PRESIDENT: Too fast!

H0052-0063

A (continuing) That was that this inscription or monument might be caused to disappear.

THE PRESIDENT: Go on.

A (continuing) It is quite probable--it is probable that they wished to caused this disappearance. According to their idea, that was an inscription which was insulting to the German Army and the German people. That is the testimony which I would like to give to the honorable Counsel for the Defense. I give it as it is.

A And you believe that the captain who commanded that battery would have known about that inscription! I don't believe so. Thank you.

BY DR. OTTO STAHMER (Counsel for Defendant Goering):

Q Witness, answering Professor Exner's question, you have said before that 43 airplanes flew over the library and dropped bombs on it. You were not in the town of Louvain at that time; where did you get that information?

A As I have already said at the trial, it was not my testimony which I am citing here, because I have none as far as I am concerned; but it is the testimony of the Counsel, David, who had a country house at Kesselleh.

This lawyer arose in the morning to look over the sky, because there was a considerable number of refugees in his home, among them women and children, and airplanes were continually overhead. He went out in the morning to see what was going on and he saw this squadron of airplanes which he counted--and he was a former soldier himself--numbering 43. The 43 planes flew towards the library and arrived south of it exactly at the furthest point from the house of the witness. A bomb fell there and he saw smoke immediately arise from the library. That is the testimony on which I base my statement.

Q So it was just one bomb that hit the library?

A We must distinguish here, sir, between artillery fire and bombs which are dropped by planes. From a technical point of view,

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it is certain that an airplane bomb hit the library, because the roof has a metal roofing. This metallic roofing is quite upright, except in that part where it is profoundly inclined, and we observed these facts and we consulted technicians. They said, then, that a metallic mass which was thus struck would not have sunk in that way unless it were from an airplane bomb. It would not have sunk that way from artillery fire.

Q How many bombs altogether were dropped by airplanes?

A How many bombs? That witness was on a height dominating the city of Louvain, where it was impossible to count exactly all the bombs which these planes dropped. He only saw the bombs fall. And he saw the smoke which arose from the roof of the library. That's all I have to say.

Q How many bombs were dropped on the city altogether? How many hits could be found in the city?

A On this point I can give you no information, but I know the bombs passed above the quarter in a straight line going to the south, the falling of these bombs at that time. In the bombing of May 10, 1940, there was damage but not very serious to the building of Superior Philosophy and a few other buildings of the University; in addition a certain number of private houses.

Q When were the bombs dropped, before the artillery fire or afterwards?

A The bombs were dropped before and afterward. I myself saw in the afternoon, on the 10th of May, 1940, a terrible bombing at that time. Bombs were dropped by a squadron of seven planes. I am not a military technician, but what I saw and these gentlemen saw were two planes which dive-bombed the Tirlemont Bridge. The result of this bombing was that a considerable amount of concrete was destroyed and several hundred persons killed in the afternoon, in the first days, the 10th of May, 1940.

(A recess was taken from 15.20 to 15.40 hours.)

H0052-0065

THE PRESIDENT: Do any of the other Defense Counsel wish to cross examine?

BY DR. BABEL (Counsel for SS and SA):

Q Witness, when did you see the university building last; that is before the attack, the last time before the attack?

A The last time before the fire, I saw it on the 11th of May 1940.

Q That was before the attack?

A Before the attack.

Q Was it damaged at that time, and in what way? Was the building at that time already damaged and in what way?

A On the 11th of May there was absolutely nothing to be seen in the library. It remained absolutely intact until the night of the 16th to 17th of May. At the time I left, there was absolutely nothing.

Q Besides the staircase and the tower - besides the hit on the tower, could you notice any other hits on the building?

A I don't think so. There were only traces of fire in the tower.

Q From the fact that only the tower had been hit, couldn't it be thought that the tower and not the building was the target?

A The tower was struck, I wished solely to speak of the traces that could be seen on the wall and the balcony of the first story and of the face of the clock, but for the rest, there was nothing left to be seen on the building for the simple reason that the building had been completely burned on the inside. On the blackened walls there was nothing to be seen, but it is absolutely certain that either an aviation bomb, but rather, I think, an artillery bomb, hit the building on the northeast corner. There is a very visible trace of a shell. It is here precisely that the fire began. The witnesses who saw the fire from the Abbey of Msgr. Weyenberg -

I don't quite understand the question of the honorable attorney.

Q After the fire, when did you see the building for the first time?

A After the fire, in the month of July, 1940.

Q That is much later?

A Yes, but still in the same condition. Nothing was done. It was still as it was originally.

H0052-0066

Q Do you know that after the building had burned, an attempt was made to save the building and to stop the fire?

Q That is absolutely certain - that attempts were made to stop the fire. The Rector of the University, M. Von Boist, told me himself and declared that he had tried to get firemen but the firemen had gone. There were only the chief and two members of the fire corps, and all the watermains had been broken up as a result of the bombardment. There was no water for several days.

Q Were there German troops in these attempts to stop the fire? I ask if these attempts to save the building were not also made by German troops?

A No, no, they were not there yet.

Q How do you know that? You weren't there.

THE PRESIDENT: The translation is not coming through.

Q Have you talked to the director on this question, whether German troops had been there to save the building?

A I spoke to the rector and to the librarian, and in my capacity as secretary-general, I discussed all general questions having to do with the University. Particularly on this point, we spoke of it, and he told me in so many words that no soldier of the German Army tried to fight the fire.

Q You also have spoken about the resistance forces. Do you know that the civilian population was asked to resist the German troops?

A Where? In the Ardennes?

Q In Belgium.

A In Belgium the resistance was composed essentially of the secret army, which was a military organization and responsible and recognized commanders, carrying arms openly and carrying distinctive badges. They could not be confused with simple Franc-Tireurs.

Q Do you know how many German soldiers have been killed by the resistance movement?

A I cannot say, because everywhere in the Ardennes the resistance centered into action with the chief at their head, working, fighting openly, with their distinctive badges. They openly attacked the German troops.

Q That was not my question. I have asked you if you know how many

H0052-0067

German soldiers became victims of that resistance movement?

A I don't understand what is the bearing of the question of the honorable attorney. Does the honorable Counsel for the Defense mean the events of the Ardennes which I alluded to a while ago, or does he speak in a completely general sense?

Q The witness in his testimony has mentioned a resistance movement, and in reference to that resistance movement, I have asked several questions, and one of these questions was whether the witness knows -

THE PRESIDENT: Dr. Babel, the witness has already answered the question by saying that he cannot say how many Germans were killed by the resistance movement.

DR. BABEL: But he can affirm that Germans, more or less of them, have been killed by the resistance.

A There were regular battles, it seems to me.

DR. BABEL: The witness will also be able to confirm that the members of the resistance are today considered heroes in Belgium.

(At this point the sound equipment failed to function)

THE PRESIDENT: Can we go on now? Will you repeat your question?

DR. BABEL: From what we have read in the papers and from what has been brought up here in part, these people who were active in the resistance movement are now considered heroes. At least I could draw that conclusion.

Q Witness, you have said, if I understood you correctly, that you lost 18 kilograms weight. What conclusion did you draw from that fact? I could not quite understand it this morning.

A I simply wanted to say that I lost these 15 kilos as a result of the moral anguish which I underwent during the occupation, and, at the question of M. Faure on whether I considered this occupation compatible with the dignity of a free man, I answered No, giving the proof that as a result of this occupation and the anguish, the loss of this weight was sufficiently demonstrative.

Q During the war, I also, without having been sick, have lost 75 kilos. What conclusion could be drawn from that, in your opinion? (Laughter)

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THE PRESIDENT: Go on, Dr. Babel, we are not interested in your experiences.

DR. BABEL: Thank you, sir. That was my last question.

THE PRESIDENT: Does any other Counsel wish to ask any questions?

(No response)

THE PRESIDENT: M. Faure?

M. FAURE: I have no questions.

(The witness was excused)

M. FAURE: I ask the Tribunal kindly to take the presentation document and the document book constituting the end of the chapter on the seizure of sovereignty, which bears the title France.

France, like Belgium, was placed under the regime of the military administration of occupation. There was, on the other hand, in France a diplomatic representation. Finally, it must be noted that the police administration always played an important role there, which became increasingly important and which extended particularly over the period which followed the appointment of General Oberg in 1942.

As concerns this last part of my chapter on the seizure of sovereignty, I should like to limit myself to mentioning a few special features which these usurpations assumed in France and certain original procedures which were employed by the Germans in this country, in addition to what has already been abundantly set forth and which will be further treated by me, as concerns the consequences of German activities in France.

I wish to draw the attention of the Tribunal to four considerations. First, the German authorities, from the beginning, assumed in France a particular character of sovereignty. I speak of the splitting up of the country into five different zones. This splitting up by the Germans compensated, to a certain extent, for the special situation which resulted for them from the existence of a non-occupied French territory.

I have already indicated previously that the Armistice Convention of 22 June, which has already been placed before the Tribunal, provided for the establishment of a line of demarcation between the occupied zone and

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the so-called non-occupied zone. It might have been thought at that time that this demarcation accorded chiefly with the necessity of military movements in the occupied zone. It might be concluded that the separation of the zones would be manifested only through the exercise in the occupied zone of the ordinary rights of an armed force occupation. I have already had occasion to quote before the Tribunal a document, the testimony of M. Leon Noel, which takes into account the verbal assurances given in this respect by General Keitel and by General Jodl, who are the defendants before you bearing these names.

Now, in fact, this demarcation of zones was interpreted and applied with extreme rigor and in a manner that was wholly unforeseen. We have already seen the important consequences of this from the point of view of the economic life of the country. There were also important consequences from the point of view of administration, local administration, which was continually embarrassed in its tasks, and from the point of view of the life of the population, which could only, with great difficulty, circulate between the different parts of the French territory. The Germans first obtained for themselves in this way a means of pressure over the French authorities. This means of pressure was all the more advantageous as it was constantly changing and extremely subtle. The Germans could now relax the rules of separation of the zones, now apply them with greatest severity.

By way of example, I wish to quote an extract from a document, which I present in evidence under the number 1051.

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This document is a letter of 20 December 1941 by Schleier of the German Embassy to the French Delegate de Brinon, a letter concerning the giving of passes to the German Civilians who wish to enter into the non-occupied zone. The French authority of the de facto government had protested against the fact that the Germans obliged the French authorities to allow any person provided with German passes to enter into the non-occupied zone where they could go about in a task, particularly of a kind that one can imagine.

The letter which I quote in answer to this French authority, and I wish to mention only the last paragraph, is the second paragraph on page two of this Document No. 1051.

"In case the French Government should have resolved to create difficulties concerning request for passes presented with the approval of the German officers, the latter would no longer be disposed of practising the same broad point of view concerning passes of French Nationals."

But another point to be noted is just what I set out to do with regard to the division of the country. This first division had a basis in the activity of the Armistice Convention, although the basis was contestable, and it is doubtful of the validity. On the other hand, the other divisions which I mention were purely imposed by the Germans without warning of any kind, without notice, and without the enunciation of any pretext in any sense plausible.

I must recall that the first supplementary is the one which separated from the rest of France the Departments of the Haut Rhin, du Bas Rhin, andof the Moselle; in connection with which I have already demonstrated they became the subject of real annexation.

The second division affected the departments of the North, and of the Pas de Calais. These departments in fact were attached to the German Military Administration of Belgium. This factor is known from the published German decrees, and is before the Tribunal in a number of Belgium decrees. Not only did this separation exist from the point of view of the German Military Administration, but it also existed from the point of view of the French Administration. This administration was not excluded in the depart-

H0052-0071

ments under consideration, but its communications with the central service were extremely difficult.

As I do not wish to develop this point at length, I would like simply to quote a document which will serve as an example, and which I submit as Document No. 1052. This is a letter from the Militarbefelshaber under date of 17 September 1941, which makes known its refusal to re-establish telegraphic and telephonic communications with the rest of France. I quote a single sentence of this letter giving a decision of the High Military Command.

"It is impossible now to honor the request for the establishment of direct telegraphic communication between the Vichy Government and the two Departments of the North."

The third division consisted in the creation within the non-occupied zone a so-called forbidden zone. The conception of this forbidden zone certainly corresponded to the future projects of the Germans as to annexation of certainly a more and extensive portion of France. In this connection I produced documents at the beginning of my presentation. This forbidden zone did not have any special rules of administration, but it required special authorization to enter or to leave it. The return to this zone by persons who had left it in order to seek refuge in other regions was possible only progressively, and with great difficulty. The administrative relation, like the economic relation between the forbidden zone and the other zone, was constantly limited. This fact was unknown.

Nevertheless, I wish to quote still as an example, and I produce this document under No. 1053. It is a letter from the Militarbefelshaber, dated 22 November 1941, addressed to the French Delegation. I shall simply summarize this document by saying that the German command accepted the authorization of the approval of the Minister of the de facto government in order to go into the occupied zone, but refused its authorization to go into the forbidden zone.

In order that the Tribunal will realize the situation of these five zones which I have just explained, I have joined to the Document Book a map of France indicating these separations. This map of France was numbered 1054, but I think it is not necessary for me to produce it as a

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document properly speaking. It is intended to enable the Tribunal to follow this extreme splitting up on the one hand of the annexed departments, and, on the other hand the North and the Pas de Calais, and the limits of this department being indicated on the map, annexed to the forbidden zone, which is indicated by the first line; and, finally, the line of demarcation with the unoccupied zone. This is, by the way, a reproduction of the map which was sold in France and sold in Paris during the occupation.

To conclude this question of the division I shall like to remind the Tribunal that on 11 November 1942, the German Army force invaded the so-called non-occupied zone. The German authorities declared at that time that they didn't intend to establish a military occupation of this zone, and that there would simply be what was called a zone of operation.

The German authorities did not, either, respect this juridical conception that they had imagined. They had not respected the rules of the law of the occupation, and the proof of this violation of law in the so-called operational zone has already been presented under a number of circumstances, and later will be brought up again in the last party of this presentation.

Besides, from this division one can imagine how embarrassing it was for the population, although the area is not enormous for a country whose life is highly centralized. I shall now tell of the second seizure of the power, which consisted in the control by the Germans of the legislative acts of the de facto government.

Naturally, the German military administration, in conformity with this doctrine, never ceased itself to exercise by its owm ordinances, the real legislative power in regard to France. On the other hand -- and it is the fact which I am dealing with now in respect to the French Government power -- its Sovereignty, the Germans recognized; but in recognizing they exercised a vertible legislative censorship. I shallproduce, however, documents by way of example, and proof of this fact.

First, I shallsubmit under No. 1055 the letter of the Commander-in-chief of the Military Affairs in France to the Delegate General of the French Government; Letter dated 29 December 1941. We can observe that the signature

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on this letter is that of Dr. Best, of whom I spoke this morning in connection with Denmark, where he went subsequently and where he was given functions that were both diplomatic and political. I think it is unnecessary for me to read the text of this letter. I shall simply read the sub-paragraph of the law concerning the French budget of 1942, and the new French law of finances.

The German authorities considered already the fact that they had to occupy themselves with the establishment of a budget of the French de facto government, to which facts they had no relation as to the necessities for their military occupation. Not only did theGermans check the contents of the law prepared by these de facto governments, but they made imperative suggestions. I shall quote no document on this point at this moment, but I shall produce only two in connection with the propaganda and the other in connection with the regime imposed upon the Jews.

The third seizure of sovereignty which the Germans took upon themselves was seized in the intervention of German authority in the treatment and confinement of officials. According to the method which I have already followed, I present by way of an example, documents on this point. The first is a document which will be number 1056, a letter 23 September 1941, from the Commander-in-Chief- von Steuelpnagel to de Brinon.

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This letter puts forth a variety of considerations, the reading of which is not indispensable, on the sabotage of harvests, and the difficulties of food supplies I read the last paragraph, page 2, of document 1056.

"Consequently, I demand insistently that a single direction assure the food supplies of the population which does not seem to me possible of realization except under the control of an energetic and competent man who will take in hand the two ministries."

I was, therefore, a case of interference on the very plane of the composition of a ministry, of an authority that was up to then apparently a governmental authority as concerns the approval of appointments.

I produce document 1057, which is a letter of the Military Command of 29 November 1941. I shall simply summarize this document by indicating that the German authorities objected to the appointment of the president of liaison committee of the manufacture of beet sugar. You see how far we are here from military necessities.

I next produce document 1058, which is likewise a letter from the Military Command. It is brief and I shall read it.

"By way of example, I beg you to take the necessary measures in order that the Sub-prefect of St. Quentin, Mr. Planacassagne, be recalled from his functions and replaced as soon as possible by a competent official. Planacassagne is not capable of carrying out his duties."

I shall now quote a text of a more general scope. I produce document 1059, which is a secret circular of 10 May 1942, addressed by the Military Command of the Administrative Staff of all the Chief Commandantures. We find here again the signature of Dr. Best.

"Control of French policy of personnel in the occupied territories.

"The reshuffling of the French Government presents certain possibilities for the exercise of a positive influence on the French personnel policy in the occupied territories. I, therefore, beg you to designate those of the French officials who from the German point of view appear particularly usable whose names may be submitted to the French Government when the question of naming holders of important posts arises."

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We thus see this general network of the German control and of the German usurpation. I now produce document 1060. This document is an interragatory of Otto Abetz, who had the function of German ambassador in France. This interrogatory took place on 17 November 1945 before the Commissioners Berge et Saulas at the General Four Bureau in Paris. This document confirms the German interferences in French administration and it, likewise, gives details on the double control between that of the Militaerbefehlshaber and that of the Gestapo. I quote:

"The Militaerbefehlshaber in Frankreich, basing itself on the various conventions of Internation Law", -- this is Otto Abetz who is speaking and it is not necessary to say that we in no way accept his conception of International Law -- "considered itself responsible and supreme judge of the maintenance of order and of public security in the occupied zone. On this ground it demanded the right of giving its approval to the appointment or the maintenance of all French officials designated to occupy posts in the occupied zone. That is concerned the officials residing in the free zone who were obliged by reason of their functions to exercise them subsequently in the occupied zone. The Militaerbefehlshaber also stressed the necessity for his approval of their designation. In practice the Militaerbefehlshaber made use of the right thus defined and claimed only at the time of the designation of high officials and solely in the sense of a veto right. That is to say, that it did not intervene in the choice of officials to be designated and contented itself with making observations on certain names proposed. These observations were based on information which the Militaerbefehlshaber received from its regional and local Commandantures from its different administrative and economic officers in Paris and by the police and the Gestapo, which at that time were still under the authority of the Militaerbefehlshaber.

"From 11 November 1942 on this state of things changed because of the occupation of the free zone. The German military authorities in this zone demanded their right to give their opinion in regard to the designation of officials in all the cases in which the security of the German Army might be thereby effected. The Gestapo authorities for its part acquired in the two zones an

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independence in fact with regard to the regional and local military chiefs and with regard to the Militaerbefehlshaber. It claimed the right to intervene in connection with any appointment which might effect the interests of the carrying out of their police tasks.

"Having been recalled to Germany from November 1942 to December 1943, I was not myself, a witness of the conflicts which resulted from this state of things and which was to come to the highest degree, the so-called sovereignty of the Vicy Government. The situation was considerably aggravated since the Gestapo demanded in the occupied as well as in the unoccupied zone the right to make the designation of prefects subject to its consent. It even went so far as to propose itself the officials to be designated by the French Government. Seconded by me, the Militaerbefehlshaber continued or took up again the struggle against these abusive demands and succeeded in part in restoring the situation in effect before November 1942."

The document which I have just read constitutes a transition for the fourt consideration which I wished to submit to the Tribunal. I wished by this consideration to insist on the juxtaposition and the collaboration of the various agents of usurpation, that is to say, the military command, the embassy, and the police. For the latter I shall return later to x in the last part of my brief.

With regard to the setting up of the German Embassy in France, I produce before the Tribunal document 1061. This document was in my brief as a judiciary translation of the original. It appears that it constitutes a part of the American documentation No. 3094-PS. It has not, however, as yet been presented to the Tribunal. This involves the official designation of Otto Abetz as ambassador. I should like to read this document 1061.

"Ministry of Foreign Affairs, 3 August 1940.

"In answer to a question of the General Quartermaster, addressed to the High Command of the armed forces and transmitted by the latter to the Ministry of Foreign Affairs, the Fuehrer has named Abetz, up to now minister, as ambassador and in accord with my report has decreed the following:

"I Embassador Abetz has the following functions in France:

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"1. To advise the military agencies in political matters.

"2. To maintain a permanent contact with the Government of Vichy and its representatives in the occupied zone.

"3. To bring to a way of thinking favorable to us the important political personalities in the occupied zone and in the unoccupied zone.

"4. To guide from the political point of view the press, the radio, and the propaganda in the occupied zone, and to influence the responsible elements in the formation of public opinion in the unoccupied zone.

"5. To concern himself with the German, French and Belgian citizens returning from internment camps.

"6. To advise the secret military police and the secret police of state in the seizure of documents that are important from the political point of view.

"7. To put in safety all the treasures, public art treasures, and private art treasures, and particularly the art treasures belonging to Jews, on the bases of express instructions relating thereto.

"Two: The Fuehrer has expressly ordered that only Ambassador Abetz shall be responsible for all the political questions in occupied and non-occupied France. Insofar as his functions concern military interests, Ambassador Abetz shall act only in accord with the military command in France.

"Three: Ambassador Abetz shall be attached as my delegate to the military command in France. His domicile shall remain in Paris as up to now. He shall receive from me the instructions for the accomplishment of his tasks and shall be responsible exclusively to me. I shall greatly appreciate the fact that the supreme command of the armed forces, the OKW -- I shall appreciate this command giving the necessary orders to the military agencies involved as soon as possible. (Signed) Ribbentrop."

This document shows on its face the institution of this close collaboratior between the military administration and the administration of foreign affairs,

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a collaboration about which I have already said, on several occasions, that it was one of the determining elements of the responsibility in this trial, a collaboration of which I shall give a little later, examples having a criminal character.

I wish now to mention to the Tribunal that I eliminate the production of the following document which was numbered 1062, although I am personally certain of the value of this document which comes from a French judicial dossier. I did not have the original German text and because of this, the translation might create difficulties, and it is naturally necessary for each document produced to present absolute guarantees as to their authenticity. I shall therefore pass

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directly to the last document, which I wish to present and which I present under No. 1063. This is a detailed dossier on this problem, on the collaboration of the German administrations, but sometimes detailed documents of a formal nature may present some interest. This has to do with a note found in the German Archives in Paris, a note of 5 November 1943, which gives the numbering of the dossiers in the German Embassy. I shall simply read the first three lines of this note: The dossiers in conformity with the division adopted by the military administration in France are distributed into ten chief groups. There follows the enumeration of these methods and groups, utilized for the classification of dossiers or files. I simply wish to point out that in their narrow collaboration and in their close collaboration, the German Embassy, a civil service depending on the foreign affairs and the military command, had adopted systems of classifications that were such that the indications of all their files were established in a corresponding fashion.

I have now concluded my second chapter which was devoted to the general examination of this seizure of sovereignty in the occupied territories, and I should like to point out that these files have been established with the collaboration of my assistant, M. Monneray, a collaboration which has for that matter extended to the whole brief which I present to the Tribunal.

I shall now ask the Tribunal to take the files relative to Chapter 3, devoted to the spiritual Germanization, that is, to propaganda.

When I had occasion to speak to the Tribunal about forced labor and economic pillage, I had said that the Germans had made exactions of available manpower, goods, and raw materials in the occupied countries. They drained these countries of their reserves and just as the Germans proceeded with regard to the accululated intellectual, the Germans proceed in the same way with regard to the accumulated intellectual and moral resources. They wished to seize and eliminate the mental reserves. This expression "mental reserves" which is extremely significant, was not selected by the Prosecution. I borrow it from the Germans themselves. I quote on this point, to the Tribunal, a new extract from a work which was introduced into evidence under No. 5 of the French documentation. This was a book published in Berlin, edited by the Nazi Party. The author was Dr. Friedrich Didier. This work has a preface by the

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Defendant Sauckel and it is entitled "Working For Europe." The quotation which I would like to make appears in the document book under No. 100, which is simply the number of its order, because the book itself has already been presented and submitted. The book includes a chapter entitled "Spiritual Orientation and Social Assistance." The author is concerned with the spiritual orientation of the foreign workers who, in numbers of millions, were taken by force and brought into the Reich. This is concerned with the spiritual organization with regard to an element as important, as the occupation of the occupied countries is already notable and remarkable in itself, but it is, on the other hand, obvious that this preoccupation is general with regard to all the inhabitants of the occupied countries, the author in this case having simply limited himself to his subject. I have chosen this quotation to being my chapter, because its drafting seems to me to be particularly happy for us to get an idea of the German plan in regard to propaganda, the German conception of progaganda.

The quotation, page 79 of the work, that has been introduced in evidence:

"The method of spiritual orientation of foreign workers is not so simple as that used in regard to his German comrade. The elimination, for instance, in the foreign worker of mental reserves is of the greatest importance. The foreigner must accustom himself to a working atmosphere which is unknown to him. His ideas as to the world must be expurgated. The conception of the nationals of X-enemy States must be actively fought, as this manifestation of foreign conceptions."

In the occupied countries the Germans undertook to eliminate the mental reserves and to expurgate each man of his ideas as to the world in order to substitute for them the Nazi conception. Such was the object of the propaganda. This propaganda had already been exercised in Germany and it continued there unceasingly. We have seen from the article just quoted that there is also a preoccupation with the intellectual reorientation of the German worker, though this problem is there considered as "more simple." When we speak today of Nazi propaganda we are often tempted to minimize the importance of this undertaking, and their reason for this and these reasons are false. On the one hand, when we consider works and theses of propaganda, we are struck most often by their

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crudeness, these of an obviously mendacious character, which they assume their intellectual or artistic poverty. But we must not forget that the Nazi propaganda utilized all means, the most crude on the one hand and at the same time, means which were more subtle and often skillful. From another point of view, the crudest affirmations are those that carry most weight on simple minds.

Finally, we must assume that if the Germans had won the war, these writings, these films which we find ridiculous, would have constituted in the future our chief and very soon our sole spiritual affair.

Another remark that is often made is that the German propaganda achieved only very feeble results. Indeed, these results are quite insignificant, especially if one takes into account the scope of the means which this propaganda had at its disposal. The enslaved peoples did not listen to the news and to the exhortations of the Germans. They threw themselves into the resistance. But there also it must be considered that the war continued, but the broadcasts from the countries which had remained free were engaged in magnificent counter-propaganda, and that finally the Germans rather quickly underwent military reverses.

If the events had been different, perhaps the propaganda would, in the long run, have brought about, on the part of more important elements of the population, a consent, an acquiescence, which would have been worse that the oppression itself. It is fortunate that only a very small minority in the different countries were corrupted by the Nazi propaganda, but however weak and small this minority may have been, it is for us a matter of sadness and of just complaint.

The slogans of the Nazi propaganda appear to us less childish and less ridiculous when we consider the few wretches who, because of this, enrolled in a legion or in the Waffen SS to fight against their countries and against humanity. The deaths of certain ones of these men in the dishonoring combat or after their condemnation has punished their crimes, but the Nazi propaganda is responsible for each one of these deaths and for each one of these crimes.

Finally, we are not sure that we know exactly today the real effects of the Nazi propaganda. We are not sure that we are able to measure the whole harm which they have done to us. The nations count their visible wounds, but

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propaganda is a poison which dissolves in the mental organism and leaves traces that cannot be discerned. There are still men in the world who, because of the propaganda which they have undergone, believe, perhaps obscurely, that they have the right to despise or to eliminate another man because he was born a Jew or because he became a Communist. The men who believe this have remained accessories to and, at the same time, victims of Naziism.

One of my colleagues has shown that the physical health of the occupied peoples was severely tried. Their moral health appears more robust, but it must still be anxiously watched for a certain time in the future.

For these reasons, the French prosecution has considered that there was room in this accusation for the chapter on the spiritual Germanization and propaganda. The propaganda is an enterprise which is, in itself, criminal. It is an enterprise against the spiritual condition, according to the definition of M. Menthon, but it is also a means and an aggravating circumstance of the whole of the criminal enterprises of the Nazis since it prepared their successes and because it was to maintain these successes. It was considered by the Germans themselves, as numerous texts show, as one of the most reliable seapons of total war. It is more particularly a means and an aspect of the Germanization which we are studying at this moment.

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I must add that the German propaganda constantly developed. During long years and over considerable areas it assumed very diverse forms. We have therefore only to define some principal features and to quote merely a few characteristic documents, chiefly from the point of view of the responsibility of certain persons or of certain organizations.

The Reich developed, over a long period of time, official propaganda services in a ministerial department created as early as 1933 under the name of Ministry of Popular Enlightenment and of Propaganda, whose head was Goebbels and for which the Defendant Fritsche performed important functions. But this Ministry and its department were not the only ones responsible for questions of propaganda. We shall demonstrate that the responsibility of the Minister and of the Department of Foreign Affairs is equally involved. We shall demonstrate, likewise, that the Party took an active part in propaganda.

Finally, I mention now that in the occupied countries the military commands constituted outlets of propaganda, organs of propaganda, which were very active. This fact must be added to all those which demonstrate that the German military commanders seized powers wholly different from what were normally considered to be military powers. It was this abnormal extension of their activity which caused the military chiefs and the High Command to have justified, outside the crimes committed within the framework of their direct competency, the accusation of joint responsibility.

The German propaganda always presents two complementary aspects, one negative aspect and one positive aspect: the negative or, in a sense, destructive aspect, that of forbidding or of limiting certain liberties, certain intellectual possibilities which existed before; the positive aspect that of creating documents or instruments of propaganda, of broadcasting this propaganda, of imposing it on the eyes, on the ears, and on the mind.

A very authorized person has already said that there are two

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different ways, the way that refuses truth and the voice that tells lies. This duality of the restrictive propaganda and of the constructive propaganda exists in the different realms of the expression of thought.

I shall mention now, in my first paragraph, the measures taken by the Germans as concerns meetings and associations. The authorities of Germany have always taken measures to suppress the freedom of meeting or of association in the occupied countries. The subject relates at once to the problem of political rights and to that of thought. In France, an ordinance of 21 August 1940, which appeared in the official journal of the German ordinances of 16 September 1940, forbade any meeting or association without an authorization of the German military administration.

It must not be thought that the Germans only utilized their powers in this regard towards associations and groups which were hostile to them, or even those whose object was political. They were anxious to avoid any spreading of an intellectual or moral influence which was not directly subordinated to them. On this line I produce before the Tribunal by way of simple example a document, No. 1101, which is a letter from the Militaerbefehlshaber of 13 December 1941, addressed to the General Delegate of the French Government. This deals with the youth groups. Even with regard to associations of groups which were to have a general public character, the Germans gave the authorization only upon condition of being able to exercise not only their control over these organizations, but an actual influence on these organizations or groups.

I shall read the first paragraph of this document 1101.

"The General Secretariat of Youth has notified us in its communication of 11 November 1941 of its intention to organize in occupied territory social centers of youth whose aim shall be to give to youth a civic education and to safeguard it from the moral decomposition which threatens it. The creation of these social

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centers of youth, as well as their organization, must be authorized by the Commander-in-Chief of the Military Forces in France. Before being able to make a final decision as to the creation of these social centers, it appears indispensable that greater detail be furnished, particularly as regards the representative of these centers in the various communes, information about the points of view which will prevail, and the choice--of chief importance--of the leaders of these centers, of the circles where this youth will be specially recruited, and what kind of programs will be provided for the teaching and education of these young people."

I shall now produce document 1142. This document is a--

THE PRESIDENT (interposing): M. Faure, could you tell us how long you think you will be on this subject of propaganda?

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M. FAURE: I expect to speak for about two hours or two and a half hours.

THE PRESIDENT: What is the program after you have done with this subject of propaganda?

M. FAURE: M. President, as I indicated at the beginninf of my presentation, it includes four chapters. The chapter of propaganda, of which I am speaking now, constitutes Chapter 3. The fourth chapter is devoted to the administrative organization of the criminal action. It corresponds, more exactly, to the second heading under Count 4 of the Indictment relative to the persecution of the Jews in the occupied countries of the West.

After this chapter I shall have completed my presentation.

Does the Tribunal likewise wish that I indicate what will follow in the program of the French prosecution?

THE PRESIDENT: Yes, we would like to know.

M. FAURE: M. Mounier will treat the analytical brief, and the recapitulation of the individual accusations of the prosecution. Then I think that M. Gerthofer is to speak rather briefly about the artistic pilfering which has not been dealt with in the French Prosecution's Brief.

THE PRESIDENT: Then we will adjourn now.

M. FAURE: Mr. President, I beg your pardon. I should like to ask the Tribunal if it is convenient for it to see tomorrow, in the course of my propaganda chapter, a few projections on the screen of documents which relate to this chapter.

THE PRESIDENT: Yes, I think so. Certainly.

DR. BABEL: (Counsel for SS and SD): The reasons for the questions which I posed to the witness seem to have been misunderstood. I spoke about the resistance movement. I wanted only to prove that -

THE PRESIDENT: (Interposing) One moment. You are going too fast.

DR. BABEL: I wanted only to prove that deeds which are said to have been committed by the German troops in many cases were caused by the attitude of the civilian population, and that actions against International Law, against Germans, have not been judged in the same way as these actions committed by members of the German Wehrmacht.

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I am of the opinion that this question -

THE PRESIDENT (interposing): Dr. Babel, will you forgive me for a moment. You concluded your cross examination some time ago, and the Tribunal doesn't desire -

DR. BABEL (Interposing): I thought that by this statement I could clarify it for the Tribunal.

THE PRESIDENT: We don't need any clarification at all. We quite understand the point of your cross examination and we shall hear you when the time comes, very fully in all probability, in support of the arguments which you desire to present.

DR. BABEL: I did it only because of the results that I saw this morning. I thought it was necessary.

THE PRESIDENT: You must give the Tribunal credit for understanding your cross examination. We really cannot continue to have interruptions of this sort. We have some 20 defendants and some 20 counsel, and if they are all going to get up in the way that you do and make protests, we shall never get to the end of this trial.

(Whereupon at 1710 hours the hearing of the Tribunal adjourned to reconvene at 1000 hours on 5 February 1946).